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4-5-83
Vol. 48 No. 66
Pages 14561-14852

federal register

Tuesday
April 5, 1983

Selected Subjects

CONTINUED INSIDE

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Selected Subjects

Contents

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 1983

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

December 13, 1983
(Revoked in part by PLO 6366)..... 14597

Proclamations:

5037..... 14561

5 CFR

890..... 14563

7 CFR

52..... 14563
418..... 14563
1033..... 14571

Proposed Rules:

810..... 14601
1004..... 14604
1007..... 14604
1011..... 14604
1013..... 14613
1046..... 14604
1120..... 14613
1126..... 14613
1132..... 14613
1138..... 14613

8 CFR

103..... 14572
214..... 14575
238..... 14593
248..... 14575
332b..... 14594

Proposed Rules:

103..... 14631
214..... 14631

12 CFR

615..... 14594

14 CFR

Proposed Rules:

320..... 14636

17 CFR

211..... 14595

19 CFR

10..... 14595
143..... 14595

21 CFR

Proposed Rules:

1301..... 14640

23 CFR

Ch. I..... 14844

26 CFR

Proposed Rules:

1 (2 documents)..... 14640, 14641
4..... 14641

30 CFR

701..... 14814
779..... 14814
780..... 14814
783..... 14814
784..... 14814
816..... 14814
817..... 14814
828..... 14814

35 CFR

10..... 14597

38 CFR

Proposed Rules:

1..... 14659

39 CFR

Proposed Rules:

10..... 14660

40 CFR

Proposed Rules:

52..... 14661
123..... 14662
465..... 14663

42 CFR

405..... 14804

Proposed Rules:

447..... 14664

43 CFR

Pulbic Land Orders:

6366..... 14597

47 CFR

73 (4 documents)..... 14598–14600

Proposed Rules:

43..... 14668
73 (24 documents)..... 14670–14699

50 CFR

Proposed Rules:

20..... 14700

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 1983

Presidential Documents

Title 3—

The President

Proclamation 5037 of March 25, 1983

National Mental Health Counselors Week, 1983

By the President of the United States of America

A Proclamation

Mental health counselors provide 50 percent of the mental health services delivered in this country. They work with adults and children whose self-doubts or distorted perceptions of the world interfere with their capacities to fulfill their obligations or to enjoy the pleasures that life can offer. They work with the chronically mentally ill, the depressed, the suicidal, the anxious, the phobic, the juvenile delinquent, the abused, and the deprived.

Through utilization of individual and group counseling techniques, mental health counselors help individuals to develop self-understanding, make life decisions, and adjust to the everyday demands of a complex world.

Mental health counselors apply skills gained through years of education and training in a multitude of settings—hospitals, community agencies, clinics, and in the private practice sector. They play an important role in our Nation's health care system.

In recognition of their service in behalf of others to save lives and reduce suffering, the Congress, by Senate Joint Resolution 35, has designated the week beginning March 20, 1983, as National Mental Health Counselors Week, and has requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 20, 1983, as National Mental Health Counselors Week. I call upon health care professionals, educators, the media, individuals, and public and private organizations concerned with mental health to join me in observing this week.

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

Ronald Reagan

[FR Doc. 83-0038
Filed 4-4-83; 11:33 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 1983

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations pertaining to benefits under the Federal Employees Health Benefits (FEHB) Program for individuals in medically underserved areas. these regulations are necessary to implement the FEHB law, as amended, which mandates special consideration for enrollees of certain FEHB plans who receive covered health service in States with critical shortages of primary care physicians.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara Myers, Office of Pay and Benefits Policy, (202) 632–4684.

SUPPLEMENTARY INFORMATION: On December 7, 1982, the Office of Personnel Management published proposed regulations in the **Federal Register** (47 FR 54974) to update Subpart G of 5 CFR Part 890. Subpart G pertains to administration of 5 U.S.C. 8902(m)(2), as added to the Federal Employees Health Benefits Law by Pub. L. 95–368, approved September 17, 1978, and amended by Pub. L. 96–179, approved January 2, 1980. The law provides that effective January 1, 1980, and continuing through December 31, 1984, FEHB plans (except comprehensive prepayment medical plans) whose contracts specify payment or reimbursement for care or treatment of a particular health condition, must also provide benefits up to the limits of their contracts in return for health services rendered by any medical practitioner who is properly licensed to provide such service, when the health service is provided to a plan member "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated under section 332 of the Public Health Service Act." Interested persons were invited to submit written comments concerning the proposed regulations by January 6, 1983.

We received two written responses on the proposed regulations during the 30-day comment period, neither of which raised objections.

Pursuant to section 553(d)(3) of title 5, United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective on January 1, 1983 because these regulations affect medically underserved areas for Calendar Year 1983.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only a small number of Federal employees and annuitants.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, OPM is amending 5 CFR Part 890 by revising the definition of "medically underserved area" in § 890.701 to read as follows:

§ 890.701 Definitions.

* * * * *

"*Medically underserved area*" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The Office has determined that effective January 1, 1983, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Dakota, West Virginia, and Wyoming.

(Pub. L. 96–179, 5 U.S.C. 8913)

[FR Doc. 83-8573 Filed 4-4-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products; Regulations Governing Inspection and Certification

Correction

In FR Doc. 83–7691 beginning on page 12325 in the issue of Thursday, March 24, 1983, in the first column, under "For Further Information Contact", in the last line, the phone number should read "(202) 447–5021."

On page 12326, in the first column, in the seventh line "from to time" should read "from time to time".

BILLING CODE 1505-01-M

Federal Crop Insurance Corporation

7 CFR Part 418

Interim Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418) effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read and understand; (2)

eliminating the reduction in production guarantee for unharvested acreage; (3) eliminating the substitute crop provision; (4) adding a 60-day claim for indemnity provision; (5) clarifying the provision determining production to count when small grains are growing with other planted or volunteer crops; (6) adding a section regarding appraisals immediately following the end of the insurance period for unharvested acreage; (7) changing the cancellation and termination for indebtedness dates; (8) revising the unit definition to provide for unit determination when the acreage report is filed; (9) adding a section concerning descriptive headings; and (10) making format and language corrections for purposes of clarification.

EFFECTIVE DATE: April 5, 1983.

COMMENT DATE: Written comments, data, and opinions on this rule, must be submitted not later than June 6, 1983, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in the regulations to which this rule applies (7 CFR Part 418) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is February 1, 1987.

It has also been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing public comment prior to its publication because the regulations, and any amendments thereto, must be placed on file in the service office by not later than 15 days prior to the cancellation date of April 15. There would not be sufficient time to provide a comment period and comply with the regulations with respect to placing these regulations on file by April 1. Public comment is solicited for 60 days after publication of this rule. The rule will be scheduled for review so that any amendment made necessary may be published in the **Federal Register** as quickly as possible thereafter.

Any written comments made pursuant to this interim rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 418

Crop insurance, Wheat.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1984 and succeeding crop years, to read as follows:

PART 418—WHEAT CROP INSURANCE

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, Pub.L. 75–430, 52 Stat. 72, 77 as amended (5 U.S.C. 1506, 1516).

§ 418.1 Availability of Wheat Insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which wheat insurance will be offered.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat which shall be shown on the county actuarial table on file in the service office and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 418.3 [Reserved.]

§ 418.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever:

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or

for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believes to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured persons relied thereon in good faith and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 418.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, and the provisions of the county actuarial table Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service. office.

§ 418.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the wheat crop as landlord, owner–operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the service office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) Wheat contracts in effect for the 1983 crop year are amended by the substitution of the 1984 contract and are continuous unless terminated in accordance with their terms. A new application is not required by these regulations for the 1984 crop year.

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR § 400.37, § 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Wheat Insurance Policy for the 1984 and succeeding crop years, are as follows:

Department of Agriculture

Federal Crop Insurance Corporation

Wheat Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We shall provide the insurance described in this policy in return for the premium and compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss:

a. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, fire, insects, plant disease, wildlife, earthquake, or volcanic eruption occurring within the insurance period, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any cause of loss of production due to:

(1) the neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) the failure to follow recognized good wheat farming practices;

(3) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured:

a. The crop insured shall be wheat which is planted for harvest as grain and which is grown on insured acreage and for which we provide a guarantee and premium rate on the actuarial table.

b. The acreage insured for each crop year shall be that acreage planted to wheat on insurable acreage as provided for on the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured wheat at the time of planting.

d. We do not insure any acreage:

(1) where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) which is irrigated and an irrigated practice is not provided for on the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) which is destroyed and we determine it is practical to replant to wheat and such acreage was not replanted;

(4) initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(5) of volunteer wheat;

(6) planted to a type or variety of wheat not established as adapted to the area or excluded on the actuarial table; or

(7) planted with crop other than wheat.

e. Where insurance is provided for an irrigated practice:

(1) you shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good wheat irrigation practice at the time of planting; and

(2) any loss of production caused by failure to carry out a good wheat irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Where Applicable, Practice.

You shall report on our form:

a. all the acreage of wheat in the county in which you have a share;

b. the practice; and

c. your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any wheat planted in the county. This report shall be submitted annually on or before the reporting date established in the actuarial table. We shall have the right to determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities:

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. You may change the coverage level and price election on or before the closing date

for submitting applications for the crop year as set out in the actuarial table.

5. Annual Premium:

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage shown in the following table.

PERCENTAGE ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE[1]

	Number of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio[2] through previous crop year																
.00-.20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21-.40	100	100	95	85	90	90	90	85	80	80	75	75	70	70	65	60
.41-.60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61-.80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81-1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

PERCENTAGE ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE[1]

	Number of loss years through previous year[3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio[2] through previous crop year																
1.10-1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20-1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40-1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70-1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00-2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50-3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25-3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00-4.99	100	100	110	128	146	164	182	200	216	236	254	272	290	300	300	300
5.00-5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00-Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for Debt. Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies, unless prohibited by law.

7. Insurance Period:

a. Insurance attaches when the wheat is planted except that in counties with an April 15 cancellation date, insurance on fall planted wheat shall attach on April 16 following planting provided we determine there is an adequate stand on this date to produce a normal crop.

b. Insurance ends at the earliest of:

(1) total destruction of the wheat;

(2) combining, threshing or removal from the field;

(3) final adjustment of a loss; or

(4) October 31 of the calendar year in which wheat is normally harvested.

8. Notice of Damage or Loss:

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) during the period before harvest, the wheat on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) you want our consent to put the acreage to another use; or

(c) after consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the wheat and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and:

(a) all residue on the unit shall be left intact for a period of 7 days from the date harvest is completed unless earlier released in writing by us; or

(b) a representative sample of the unharvested wheat at least 10 feet wide and the entire length of the field shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the wheat on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must be given written consent by us before you destroy any of the wheat which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity:

a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) total destruction of the wheat on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) establish the total production of wheat on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) subtracting therefrom the total production of wheat to be counted under section 9e;

(3) multiplying the remainder by the price election; and

(4) multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production:

(1) Mature wheat production:

(a) which otherwise is not eligible for quality adjustment and which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent; or

(b) which, due to insurable causes, does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official United States Grain Standards, shall be adjusted by:

(i) dividing the value per bushel of such wheat, as determined by us, by the price per bushel of U.S. No. 2 wheat; and

(ii) multiplying the result by the number of bushels of such wheat.

The applicable price for No. 2 wheat shall be the local market price on the earlier of: the day the loss is adjusted or the day such wheat was sold.

(2) Any mature production from other crops growing in the wheat shall be counted as wheat on a weight basis.

(3) Appraised production to be counted shall include:

(a) unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good wheat farming practices;

(b) not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) any appraised production on unharvested acreage.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) is not put to another use before harvest of wheat becomes general in the county;

(b) is harvested; or

(c) is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested wheat on the basis of field appraisals immediately after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the wheat is damaged by hail or fire, appraisals shall be made in accordance with the terms of Form FCI-78 "Request to Exclude Hail and Fire."

(7) The production of units commingled shall be allocated to such units in proportion to the liability on the harvested acreage of each unit.

f. You shall not abandon any insured wheat acreage to us.

g. You cannot bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompenent, or if you are an entity other than individual and such entity is dissolved after the wheat is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) the amount of indeminity determined pursuant to this contact without regard to any other insurance; or

(2) the amount determined by us by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by us.

10. Concealment or Fraud. We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or ommission occurred.

11. Transfer of Right to Indemnity on Insured Share. If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of Indemnity. You may only assign to another party the right to an indemnity for the crop year on our prescribed form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to Farm. You shall keep for two years after the time of loss, records of the havesting, storage, shipments, sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. life of contract: Cancellation and Termination:

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided for in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation date	Termination date for indebtedness
Alaska; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; all other Michigan counties except those listed below; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Carson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota and all South Dakota counties lying north and east thereof; Vermont; and, Trempeleau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin and all Wisconsin counties lying north and west thereof.	Apr. 15	Apr. 15.
All other Colorado counties except as otherwise listed, Kansas, New Mexico, Oklahoma, and Texas.	Aug. 31	Aug. 31.
Nebraska and all other South Dakota counties.	Sept. 15	Sept. 15.
All other Montana counties.	Sept. 30	Nov. 30.
Arizona, California, and Nevada.	Oct. 31	Oct. 31.
Idaho, Oregon, Utah, and Washington.	Oct. 31	Nov. 30.
Leland, Antrim, Charlevoix, Emmet, Cheboygan, and Presque Isle Counties, Michigan and all Michigan counties lying south thereof; all other Wisconsin counties and all other states.	Sept. 30	Sept. 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract Changes. We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 of the crop year for which the changes are to become effective for counties with an April 15 cancellation date and by May 31 of the crop year for which the changes are to become effective for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of Terms. For the purposes of wheat crop insurance:

a. "Acturial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

c. "Crop year" means the period within which the wheat is normally grown and shall be designated by the calendar year in which the wheat is normally harvested.

d. "Harvest" means the severance of mature wheat from the land by combining or for threshing.

e. "Insurable acreage" means the land classified as insurable by us and shown as such on the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the Wheat or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of wheat in the county on the date of planting for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fida share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings. The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

Colorado

Adams	Larimer
Alamosa	Las Animas
Arapahoe	Lincoln
Archuleta	Logan
Baca	Mesa
Bent	Moffatt
Boulder	Montezuma
Cheyenne	Montrose
Conejos	Morgan
Costilla	Otero
Crowley	Ouray
Custer	Park
Delta	Phillips
Dolores	Pitkin
Douglas	Prowers
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Grand	San Miguel
Huerfano	Sedgwick
Jefferson	Washington
Kiowa	Weld
Kit Carson	Yuma
La Plata	

Connecticut

(All counties)

Delaware

(All counties)

Florida

Alachua	Jackson
Calhoun	Jefferson
Columbia	Lafayette
Dixie	Liberty
Escambia	Madison
Gadsden	Okaloosa
Gilchrist	Pasco
Gulf	Santa Rosa
Hamilton	Suwannee
Hernando	Walton
Holmes	Washington

Georgia

(All counties except)

Camden	Douglas
Charlton	McIntosh
Chattahoochee	Muscogee
Cobb	Towns
De Kalb	

Idaho

(All counties except Shoshone)

Illinois

(All counties)

Indiana

(All counties)

Iowa

(All counties)

Kansas

(All counties)

Kentucky

(All counties except)

Bell
Elliott
Harlan
Lawrence
Leslie
Letcher
Martin
Perry
Pike

Louisiana

(All parishes)

Maine

Aroostook
Kennebec
Penobscot
York

Maryland

(All counties)

Massachusetts

Berkshire
Franklin
Hampden
Hampshire

Michigan

(All counties)

Minnesota

(All counties)

Mississippi

(All counties)

Missouri

(All counties)

Montana

(All counties)

Nebraska

(All counties except)

Arthur
Grant
Hooker
Thomas

Nevada

(All counties)

New Jersey

Atlanta
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Ocean
Salem
Somerset
Sussex
Warren

New Mexico

(All counties except Lincoln)

New York

Albany
Allegany
Broome
Cattaraugus
Cayuga
Chautauqua
Chemung
Chenango
Columbia
Cortland
Dutchess
Erie
Essex
Genesee
Greene
Herkimer
Jefferson
Lewis
Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
Orange
Orleans
Oswego
Otsego
Rensselaer
St. Lawrence
Saratoga
Schenectady
Schoharie
Schuyler
Seneca
Steuben
Suffolk
Sullivan
Tioga
Tompkins
Ulster
Washington
Wayne
Wyoming
Yates

North Carolina

Alamance
Alexander
Alleghany
Anson
Beaufort
Bertie
Bladen
Brunswick
Buncombe
Burke
Cabarrus
Caldwell
Camden
Carteret
Caswell
Catawba
Chatham
Chowan
Cleveland
Columbus
Craven
Cumberland
Currituck
Davidson
Davie
Duplin
Durham
Edgecombe
Forsyth
Franklin
Gaston
Gates
Granville
Greene
Guilford
Halifax
Harnett
Henderson
Hertford
Hoke
Hyde
Iredell
Johnston
Jones
Lee
Lenoir
Lincoln
McDowell
Madison
Martin
Mecklenburg
Montgomery
Moore
Nash
New Hanover
Northampton
Onslow
Orange
Pamlico
Pasquotank
Pender
Perquimans
Person
Pitt
Polk
Radolph
Richmond
Robeson
Rockingham
Rowan
Rutherford
Sampson
Scotland
Stanly
Stokes
Surry
Tyrrell
Union
Vance
Wake
Warren
Washington
Wayne
Wilkes
Wilson
Yadkin

North Dakota

(All counties)

Ohio

(All counties)

Oklahoma

(All counties)

Oregon

(All counties except)

Clatsop
Coos
Curry
Hood River
Lincoln
Tillamook

Pennsylvania

(All counties except Philadelphia and Wayne)

Rhode Island

Newport
Washington

South Carolina

(All counties)

South Dakota

(All counties except)

Armstrong
Washabaugh
Washington

Tennessee

(All counties)

Texas

Anderson
Andrews
Archer
Armstrong
Atascosa
Austin
Bailey
Bandera
Bastrop
Baylor
Bee
Bell
Bexar
Blanco
Borden
Bosque
Bowie
Brazoria
Brazos
Briscoe
Brown
Burleson
Burnet
Caldwell
Calhoun
Callahan
Carson
Castro
Chambers
Cherokee
Childress
Clay
Cochran
Coke
Coleman
Collin
Collingsworth
Colorado
Comal
Comanche
Concho
Cooke
Coryell
Cottle
Crockett
Crosby
Culberson
Dallam
Dallas
Dawson
Deaf Smith
Delta
Denton
De Witt
Dickens
Dimmit
Donley
Duval

Eastland
Ector
Edwards
Ellis
El Paso
Erath

Falls
Fannin
Fayette
Fisher
Floyd
Foard
Fort Bend
Franklin
Freestone
Frio

Gaines
Galveston
Garza
Gillespie
Glasscock
Goliad
Gonzales
Gray
Grayson
Grimes
Guadalupe

Hale
Hall
Hamilton
Hansford
Hardeman
Harris
Harrison
Hartley
Haskell
Hays
Hemphill
Henderson
Hidalgo
Hill
Hockley
Hood
Hopkins
Houston
Howard
Hudspeth
Hunt
Hutchinson

Irion

Jack
Jackson
Jeff Davis
Jim Wells
Johnson
Jones

Karnes
Kaufman
Kendall
Kent
Kerr
Kimble
King
Kinney
Kleberg
Knox

Lamar
Lamb
Lampasas
La Salle
Lavaca
Lee
Leon
Liberty
Limestone
Lipscomb
Live Oak
Llano
Lubbock
Lynn

McCulloch
McLennan
McMullen
Madison
Marion
Martin
Mason
Matagorda
Maverick
Medina
Menard
Midland
Milam
Mills
Mitchell
Montague
Moore
Morris
Motley

Nacogdoches
Navarro
Nolan

Ochiltree
Oldham

Palo Pinto
Panola
Parker
Parmer
Pecos
Potter

Rains
Randall
Reagan
Real
Red River
Reeves
Refugio
Roberts
Robertson
Rockwall
Runnels
Rusk

San Patricio
San Saba
Schleicher
Scurry
Shackelford
Shelby
Sherman
Smith
Somervell
Starr
Stephens
Sterling
Stonewall
Sutton
Swisher

Tarrant
Taylor
Terry
Throckmorton
Titus
Tom Green
Travis

Upton
Uvalde

Van Zandt
Victoria

Waller
Washington
Wharton
Wheeler
Wichita
Wilbarger
Williamson
Wilson
Wise
Wood

Yoakum
Young

Zavala

Utah

(All counties except Daggett)

Vermont

(All counties)

Virginia

(All counties except Arlington)

Washington

(All counties except)

Jefferson
King
Pacific
Wahiakum

West Virginia

Barbour
Berkeley
Brooke
Cabell
Fayette
Grant
Greenbrier
Hampshire
Hancock
Hardy
Harrison
Jackson
Jefferson
Marshall
Mason
Mineral
Monroe
Morgan
Nicholas
Ohio
Pendleton
Pleasants
Pocahontas
Preston
Putnam
Randolph
Ritchie
Summers
Tucker
Wood

Wisconsin

(All counties)

Wyoming

Big Horn
Campbell
Carbon
Converse
Crook
Fremont
Goshen
Hot Springs
Johnson
Laramie
Lincoln
Natrona

Niobrara	Uinta
Park	Washakie
Platte	Weston
Sheridan	

Done in Washington, D.C., on February 23, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: March 28, 1983.

[FR Doc. 83-8722 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR PART 1033

Milk in the Ohio Valley Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Ohio Valley Federal milk order. The suspension makes inoperative for the months of April through September 1983 the requirement that a distributing plant dispose of not less than 45 percent of its receipts as route disposition in March through August, and 50 percent during September through February, in order to be a pool plant. The action was requested by a proprietary handler operating four distributing plants pooled under the order to assure the efficient disposition of milk not needed for fluid use and still maintain pool status for its distributing plants and producer status for dairy farmers who regularly have supplied the fluid milk needs of the market. No comments were received in opposition to a notice of proposed suspension.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 7, 1983; published March 11, 1983 (48 FR 10371).

It has been determined that this suspension is not a major action under the criteria set forth in Executive Order 12291.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures in time to include April 1983 in the suspension period. The initial request for this action was received March 2, 1983. A notice of proposed suspension was issued on March 7, 1983, inviting interested parties to comment on the proposed action by March 18, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Ohio Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on March 11, 1983, (48 FR 10371) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of April through September 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1033.12, paragraph (a)(2).

Statement of Consideration

This action makes inoperative for April through September 1983 the provision requiring a distributing plant to dispose of not less than 45 percent of its receipts as route disposition during the months of March through August, and 50 percent during September through Febraury, in order to remain pooled. The suspension was requested by Beatrice Foods Company, a proprietary handler which operates four pool distributing plants under the order.

The suspension is necessary because of producer milk deliveries in the Ohio Valley market which are increasing both seasonally and over the levels of previous years. At the same time milk production is at its seasonal peak, Beatrice anticipates a decline in Class I disposition from its plants due to summer closure of schools and the resulting loss of fluid sales to schools.

For January 1983, producer receipts in the Ohio Valley market were 3.8 percent over December 1982 production and 5.3 percent above January 1982. With the combination of increasing production and summer school closures, Beatrice states that it expects that the proportion of milk regularly associated with its distributing plants which will be needed to meet its route disposition requirements will be less than 45 percent in the months of April through August, and less than 50 percent in the month of September this year.

In the absence of suspension action, Beatrice indicated that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling its distributing plants and the milk of dairy farmers who regularly have supplied the fluid milk needs of the market.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. A cooperative association delivering substantial quantities of its members' milk to three of Beatrice's pool distributing plants on a year-round basis supported the suspension in order to avoid incurring substantial costs in transporting its members' milk solely for the purpose of maintaining pool status for producers regularly associated with the market.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies that are in excess of fluid milk requirements. This action will eliminate the possibility that Beatrice Foods Company would find it necessary to make uneconomic movements of milk in order to assure the producer status of dairy farmers who are regular suppliers of milk for the fluid market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area in that substantial quantities of milk producers who regularly supply the market otherwise could be excluded from the marketwide

pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1033

Milk Marketing Orders,
Milk,
Dairy Products.

It is therefore ordered, That the aforesaid provisions in § 1033.12(a)(2) of the order are hereby suspended for April through September 1983.

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

Effective date: April 5, 1983.

Signed at Washington, D.C., on: March 30, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-8816 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records; Revisions to Service Fee Schedule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the fee schedule of the Immigration and Naturalization Service. Changes to the fee schedule are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the individual recipients. Charges have been adjusted to more nearly reflect the current recovery cost of providing the benefits and services, taking into account public policy and other pertinent facts as required by law.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye St., NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Ruth M. L. Homan, Director, Finance Staff, Immigration and Naturalization Service, 425 Eye St., NW., Washington, D.C. 20536, Telephone: (202) 633–3027.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service (INS) published a proposed rule on August 26, 1982 at 47 FR 37556 to amend the schedule of fees charged by the Service for the processing and adjudication of applications, petitions, motions and requests submitted by the public, and to provide a means by which an appealing party could obtain a transcript of a hearing commercially. Comments were received from more than 25 individuals and organizations, including professional and service associations, universities, attorneys, non-profit organizations, immigration judges, field directors, and members of the general public. All of the comments received were fully considered before preparing this final rule. The following summary addresses the substantive comments received and explains changes made to the fees and those proposed fees which are not being implemented.

I. Transcripts

Subsequent to the proposed rule, the functions of the Board of Immigration Appeals were transferred under the newly created Executive Office for Immigration Review (EOIR) which is directly under the Department of Justice (48 FR 8038, 8056 dated February 25, 1983). The proposed rule to amend 8 CFR 3.9 provided a mechanism for appealing parties to obtain transcripts of hearings commercially. However, this proposal is not being adopted at this time in view of the organizational changes which have occurred.

II. Fees

A. In general

Most of the comments received on the proposed fee schedule address the level of the fee amounts in general rather than specifically criticizing one proposed fee. Several commenters suggested that certain fees were too low considering the value of the services to the recipients. Others were concerned that some fee increases were too large for recipients to bear, suggesting that any necessary increase in revenue received by the Service should instead come from budgetary resources.

31 U.S.C. 483a requires Federal agencies to establish a fee system in which a benefit or service provided to or for any person be self-sustaining to the fullest extent by the fee schedule. Fees are neither intended to replace nor to be influenced by the budgetary process and related considerations, but instead, to be governed by the total cost to the agency to provide the service. A policy of setting fees according to the value of the service to the recipient, as some commenters have suggested, would violate this principle. The Service has therefore attempted to ascertain as accurately as possible the cost of providing each specific benefit or service and to set the pertinent fee accordingly.

Since the regulations provide for the waiver of a fee when it is shown that the recipient is unable to pay, the new fee schedule should not prohibit applications or requests on the basis of the inability to pay as some of the comments suggested. Furthermore, several fees for administrative appeal processes and for filing naturalization petitions are at less than full cost recovery recognizing longstanding public policy and the interest served by these processes.

B. Specific fees

1. *Non-immigrant student applications.* Several comments were received objecting to the proposed $15 fee for processing an application, Form I–538, for extension of stay, employment authorization, or school transfer by a non-immigrant student. The general concern was that charging such a fee would impose an overly burdensome economic hardship on foreign students, thereby damaging the foreign student exchange.

However, in view of the substantial financial commitment that is necessary prior to seeking an education in the United States, it is not likely the amount of this fee will adversely influence decisions on participation of foreign students in our domestic educational programs. The benefits applied for under Form I–538 normally arise because a student was not able to meet previously made commitments and must seek a change in status. The Service believes that Form I–538 benefits accrue directly to these individuals and this cost should not be borne by the general taxpaying public. Because there are provisions for fee waiver, these benefits will not be withheld from those who truly lack financial resources to meet this fee requirement and the fee will provide equity by charging those who can.

In the proposed rule, the Service inadvertently included in the list of motions exempted from a fee a motion to reopen or reconsider a decision on a

Form I–538 application. Since in the proposed and final rule, a fee is now required for all student Form I–538 applications, a motion filed to reopen or reconsider a student application is no longer exempted.

2. *Fees for Appeal Processes.* The proposed rule provided for a new $50 fee for filing an appeal to the Board of Immigration Appeals from a bond decision of an immigration judge. This new fee is not implemented in view of the recent creation of the Executive Office for Immigration Review (EOIR).

Fees for filing an application for stay of deportation under Part 243 of 8 CFR, filing an application for suspension of deportation under section 244 of the Act, filing an appeal to the BIA, and filing an application for temporary withholding of deportation under section 243(h) of the Act, which were proposed to be increased to $110, will remain at the current levels of $70, $75, $50, and $50 respectively. The proposed fee increases are not being implemented because these matters fall within the jurisdiction of the EOIR. A number of commenters were opposed to increasing the fees for administrative appeals; however, since these fees are not being increased by this final rule, the issues raised are moot. Any future changes to these fees may be initiated by the EOIR under Part 3 of 8 CFR. Further, in order to avoid disparity between the fee for filing an appeal to the BIA and fees for filing administrative appeals within the Service, the proposed increases to the fee for filing an appeal on Form I–290B and the fee for filing a motion to reopen or reconsider an administrative decision under the immigration laws are not adopted and the currently prescribed fees of $50 remain in effect.

3. *Orphan petitions.* Effective February 28, 1983, a new application (Form I–600A) was added to the fee schedule for requesting advance processing of an orphan petition. Advance processing of orphans was previously filed on Form I–600 and this application carries the same fee as the Form I–600. Accordingly, the fee for Form I–600 and Form I–600A is increased from $35 to $50 as proposed for Form I–600.

The following represents a summary of the fees as proposed, adopted, and those which remain unchanged:

Form/application	Proposed fee	Adopted fee	Action
Form G–641 application	$15.00	$15.00	Adopted as proposed.
For certification	2.00	2.00	Do.
For attestation	2.00	2.00	Do.
Form I–17	50.00	50.00	Do.
Form I–90	15.00	15.00	Do.
Form I–102	15.00	15.00	Do.
Form I–129B	35.00	35.00	Do.
Form I–129F	35.00	35.00	Do.
Form I–130	35.00	35.00	Do.
Form I–131	15.00	15.00	Do.
Form I–140	50.00	50.00	Do.
Form I–191	50.00	50.00	Do.
Form I–192	35.00	35.00	Do.
Form I–193	15.00	15.00	Do.
Form I–196	15.00		U.S. citizen ID card discontinued.
Form I–212	35.00	35.00	Adopted as proposed.
Form I–246	110.00	70.00	Fee remains at current level: jurisdiction with EOIR.
Form I–258A	110.00	75.00	Do.
Form I–290A	110.00	50.00	Do.
Form I–290B	110.00	50.00	Fee remains unchanged.
Form I–485	50.00	50.00	Adopted as proposed.
Form I–506	15.00	15.00	Do.
Form I–538	15.00	15.00	Do.
Form I–539	15.00	15.00	Do.
Form I–570	15.00	15.00	Do.
Form I–600	50.00	50.00	Do.
Form I–600A	Same as I–600	50.00	Increased w/I–600 proposal.
Form I–601	35.00	35.00	Adopted as proposed.
Form I–612	50.00	50.00	Do.
Form N–400	35.00	35.00	Do.
Form N–410	15.00	15.00	Do.
Form N–455	15.00	15.00	Do.
Form N–470	15.00	15.00	Do.
Form N–565	15.00	15.00	Do.
Form N–577	15.00	15.00	Do.
Form N–580	15.00	15.00	Do.
Form N–600	35.00	35.00	Do.
Motion to reopen or reconsider	110.00	50.00	Fee remains at current level.
Request for temporary withholding of deportation	110.00	50.00	Fee remains at current level: jurisdiction with EOIR.
Request for statistical tabulations	Cost	Cost	No change.
Passenger travel tables	7.00	7.00	Do.
N–300/315	15.00	15.00	Adopted as proposed.
N–405/407	50.00	50.00	Do.

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

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegations (Government agencies), Fees, Forms, Freedom of Information Act, Organization and functions (Government agencies).

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

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Paragraph (b) of § 103.7 is revised to read as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees*—(1) The following fees and charges are prescribed:

Form I–17. For filing application for school approval, except in the case of a school or school system owned or operated as a

Form G–641. For filing application for verification of information contained in Service records—$15.00

For certification of true copies, each—$2.00

For attestation under seal—$2.00

public educational institution or system by the United States or a state or political subdivision thereof—$50.00

Form I–90. For filing application for Alien Registration Receipt Card (Form I–551) in lieu of an obsolete card or in lieu of one lost, mutilated or destroyed, or in a changed name—$15.00

Form I–102. For filing application (Form I–102) for Arrival-Departure Record (Form I–94) or Crewman's Landing Permit (Form I–95), in lieu of one lost, mutilated, or destroyed—$15.00

Form I–129B. For filing petition to classify nonimmigrant as temporary worker or trainee under section 214(c) of the Act—$35.00

Form I–129F. For filing petition to classify nonimmigrant as fiancee or fiance under section 214(d) of the Act—$35.00

Form I–130. For filing petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—$35.00

Form I–131. For filing application for issuance of reentry permit—$15.00

Form I–140. For filing petition to classify preference status of an alien on basis of profession or occupation under section 204(a) of the Act—$50.00

Form I–191. For filing application for discretionary relief under section 212(c) of the Act—$50.00

Form I–192. For filing application for discretionary relief under section 212(d)(3) of the Act, except, in an emergency case, or where the approval of the application is in the interest of the United States Government—$35.00

Form I–193. For filing application for waiver of passport and/or visa—$15.00

Form I–212. For filing application for permission to reapply for an excluded or deported alien, an alien who has fallen into distress and has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—$35.00

Form I–246. For filing application for stay of deportation under Part 243 of this chapter—$70.00

Form I–256A. For filing application for suspension of deportation under section 244 of the Act—$75.00

Form I–290A. For filing appeal from any decision under the immigration laws in any type of proceedings (except a bond decision) over which the Board of Immigration Appeals has appellate jurisdiction in accordance with section 3.1(b) of this Chapter. (The fee of $50 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—$50.00

Form I–290B. For filing an appeal from any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. (The fee of $50 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision).—$50.00

Form I–485. For filing application on Form I–485 for permanent residence status or for creation of a record of lawful permanent residence.—$50.00

Form I–506. For filing application for change of nonimmigrant classification under section 248 of the Act.—$15.00

Form I–538. For filing application by a nonimmigrant student (F–1) for an extension of stay, a school transfer or permission to accept or continue employment or practical training.—$15.00

Form I–539. For filing application for extension of stay of a nonimmigrant, other than one described in section 101(a)(15)(F) or 101(a)(15)(J) of the Act, and, upon a basis of reciprocity, a nonimmigrant described in section 101(a)(15)(A)(iii) or 101(a)(15)(G)(v) of the Act.—$15.00

Form I–570. For filing application for issuance or extension of refugee travel document.—$15.00

Form I–600. For filing petition to classify orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.—$50.00

Form I–600A. For filing application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required).—$50.00

Form I–601. For filing application for waiver of ground of excludability under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those sub-sections.—$35.00

Form I–612. For filing application for waiver of the foreign-residence requirement under section 212(e) of the Act.—$50.00

Form N–400. For filing application for certificate of citizenship on Form N–400 by a parent, and the issuance thereof, under section 341 of the Act.—$35.00

Form N–410. For filing motion for amendment of petition for naturalization when motion is for the convenience of the petitioner.—$15.00

Form N–455. For filing application for transfer of petition for naturalization under section 335(i) of the Act, except when transfer is of a petition for naturalization filed under the Act of October 24, 1968, P.L. 90–633.—$15.00

Form N–470. For filing application for section 316(b) or 317 of the Act benefits.—$15.00

Form N–565. For filing application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; or for a certificate of citizenship in a changed name under section 343(b) or (d) of the Act.—$15.00

Form N–577. For filing application for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(e) of the Act—$15.00

Form N–580. For filing application for a certificate of naturalization or repatriation under section 343(a) of the Immigration and Nationality Act or the 12th subdivision of section 4 of the Act of June 29, 1906—$15.00

Form N–600. For filing application for certificate of citizenship under section 309(c) or section 341 of the Act—$35.00

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws (except on applications filed by exchange visitors on Form IAP–66, Cuban refugees on Form I–485A filed under the Act of November 2, 1966, or A–1, A–2 or C–4 nonimmigrants on Form I–566 for which no fee is chargeable). When the motion to reopen or reconsider is made concurrently with any application under the immigration laws, the application will be considered an integral part of the motion and only the fee for filing the motion or the fee for filing the application, whichever is greater, is payable. (The fee of $50 will be charged whenever a motion is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—$50.00

Request. For filing application for temporary withholding of deportation under section 243(h) of the Act—$50.00

Request. For special statistical tabulations a charge will be made to cover the cost of the work involved—Cost

Request. For set of monthly, semiannual, or annual tables entitled "Passenger Travel Reports via Sea and Air" [1]—$7.00

[1] Available from Immigration & Naturalization Service for years 1975 and before. Later editions are available from the United States Department of Transportation, contact: United States Department of Transportation, Transportation Systems Center, Kendall Sqaure, Cambridge, MA. 02142.

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Justice, 28 CFR 16.9.

(3) Except as otherwise provided in paragraph (c) of this section, for services performed under section 344(a) of the Act the clerk of the court shall charge, collect, and account for the following fees:

Form N–300/315. For receiving and filing a declaration intention—$15.00

Form N–405/407. For making, filing, and docketing a petition for naturalization—$50.00

* * * * *

(Sec. 103, 66 Stat. 173, 31 U.S.C. 483a; 8 U.S.C. 1103, OMB Cir. A–25)

Dated: March 17, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-8723 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification; Revisions in Regulations Pertaining to Nonimmigrant Students and the Schools Approved for Their Attendance

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service is revising the regulations regarding F-1 academic students and F-1 students in language training programs to eliminate burdensome paperwork. The Service is also publishing regulations pertaining to the new M-1 nonimmigrant visa classification for vocational or nonacademic students not in language training programs, which was created by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116. In addition, the Service is revising its regulations relating to schools approved for attendance by F-1 and M-1 students in order to control abuses by mala fide schools.

EFFECTIVE DATE: August 1, 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: Alice Strickler, Immigration Examiner, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-5015.

SUPPLEMENTARY INFORMATION: On May 28, 1982, the Service published proposed regulations relating to nonimmigrant students and the schools approved for their attendance in the **Federal Register** at 47 FR 23463. The thirty-day comment period was to end on June 28, 1982. On June 25, 1982, however, due to requests for additional time within which to submit written comments, the Service, in 47 FR 27565, extended the comment period for an additional thirty days until July 27, 1982.

The regulations proposed to eliminate the requirement for the filing and adjudication of applications for extension of stay, permission to transfer from one school to another, and permission to engage in practical training for F-1 students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, and other academic institutions, and in language training programs. (As a result of section 2(a)(1) of the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116, 95 Stat. 1161, as of June 1, 1982, the F-1 visa classification was limited to those students.)

The regulations also proposed procedures for the efficient administration of that portion of section 2(a)(2) of the Immigration and Nationality Act Amendments of 1981 (section 101(a)(15)(M) of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(M), which pertains to creation of an M nonimmigrant visa classification for vocational or nonacademic students not in language training programs. The M-1 classification went into effect on June 1, 1982; however, until August 1, 1983, prior regulations relating to F-1 students continue to apply to M-1 students.

In addition, the Service proposed revisions in the regulations relating to schools approved for attendance by nonimmigrant students to make more effective use of institutional sponsorship of the students by the schools and to control abuses by mala fide schools. These proposals included new record-keeping and reporting requirements, additional ground for withdrawing the approval of a school for attendance by nonimmigrant students, and a one-time recertification process under which all schools seeking to continue their approvals would reapply for approval and reaffirm their intent to comply with Service regulations.

Eighty-two individuals and organizations submitted written comments on the proposed regulations. Many of the individuals and organizations offered numerous comments on various different aspects of the proposals. The Service has carefully analyzed all comments and has identified six major areas of concern, as well as a variety of general and technical points. The six major areas of concern are:

(1) Return to the prior policy of duration of status for F-1 students,

(2) School transfer for F-1 students as a notification procedure instead of as an adjudication procedure,

(3) Off-campus employment authorization for F-1 students,

(4) Practical training for F-1 students,

(5) The strictness of the provisions on M-1 students, and

(6) The record-keeping and reporting requirements.

Duration of Status

Under prior regulations, a student was admitted for or otherwise granted the period of time necessary to complete the course of study indicated on the Certificate of Eligibility, Form I-20A, issued by the school the student planned to attend. Under the proposed regulations, an F-1 student would be admitted for duration of status, which would be the period of time during which the student is pursuing a full course of study in one or more educational programs and any period or periods of authorized practical training, plus thirty days.

Thirty individuals and organizations were generally in favor of the proposal on duration of status, while twenty individuals and organizations were generally opposed to it. Eleven individuals and organizations stated specifically that they were in favor of the proposal, while twelve individuals and organizations stated specifically that they were against it. In general, those in favor of the proposal saw it as a means of eliminating burdensome paperwork. Those against it were concerned about a perceived lack of control over F-1 students.

Under § 214.2(f)(5) of this final rule, the Service is reinstituting the policy of duration of status for F-1 students but is limiting duration of status to the period of time during which the student is pursuing a full course of study in only one educational program (e.g. elementary school, high school, bachelor's degree, or master's degree) and any period or periods of authorized practical training, plus thirty days. A student desiring to pursue a course of study in another educational program must apply for an extension of stay, and, if applicable, a school transfer. Furthermore, a student who has completed one educational program and who desires to complete another educational program at the same level of educational attainment (for example, a second master's degree) must also apply for an extension of stay and, if applicable, a school transfer.

The duration of status policy which the Service is implementing has several advantages. It will reduce the Service workload and eliminate unnecessary paperwork for the public. A bona fide student who does not complete a course of study on the expected date of completion indicated on Form I-20A because of illness, academic difficulties, change in major field of study, or school transfer does not need to apply for an extension of stay as under prior regulations. The duration of status

policy which the Service is implementing also provides more control over F–1 students than the proposed procedure. Furthermore, the Service is instituting a procedure with its newly developed student and schools enhancement to its new computerized recordkeeping system which will monitor students in duration of status with a minimum of paperwork. Under the procedure, the schools will be sent computer-generated lists of students Service records indicate are attending the school. The designated school officials will then be requested to indicate whether each student listed is pursuing a full course of study. Appropriate action will be taken regarding those students who are not pursuing full courses of study.

The decision to return to duration of status is based on the results of the Iranian Student Registration Program, which involved the largest group of students in the United States from any one country at the time it began. As of May 18, 1981, 88 percent of these students were found to be in status including 3.6 percent who had been reinstated. Duration of status had been in effect from the beginning of the registration program on November 13, 1979 until February 23, 1982. The Service therefore has reason to believe that, with the extra control afforded by limiting duration of status to one educational program, coupled with the Service's computerized record-keeping system, the new duration of status policy will achieve excellent control over F–1 students with greatly reduced paperwork.

School Transfer

Under prior regulations, students desiring to transfer from one school to another had to apply to the Service for permission to do so. Under the proposed regulations, no application would be necessary for an F–1 student to effect a school transfer. The designated school official at the old school would be responsible for all the necessary paperwork.

Thirty-three individuals and organizations were generally in favor of the proposal on school transfer as a notification procedure, while fifteen individuals and organizations were generally opposed to it. Thirteen individuals and organizations stated specifically that they were in favor of the proposal, while five individuals stated specifically that they were against it. Four comments expressed concern that the procedure has the potential for abuse by school officials who might wish to prevent students from transferring.

Those in favor of school transfer as a notification procedure were impressed with its efficiency. Those opposed to it were concerned not only about a perceived lack of control over F–1 students, but also about a claimed conflict of interest. Some even suggested that the procedure involves an illegal delegation of authority.

Under § 214.2(f)(8) of the final rule, the Service is instituting school transfer within the same educational program as a notification procedure, but with a change in the procedure. The designated official at the old school does not have sole responsibility for the paperwork involved. The designated official at the new school shares in that responsibility. Furthermore, the student must report the failure of a designated official at the old school to follow the required procedure. This change in the procedure will eliminate the possibility of abuse by school officials who might attempt to keep students from transferring.

The charges of conflict of interest and illegal delegation of authority are based upon a misunderstanding of the transfer procedure, which is only a notification procedure and does not involve any adjudication on the part of the school official. The official will make a recommendation, but this recommendation is nothing more than an advisory opinion to be used by the Service in determining which students should be interviewed concerning their status.

Permitting school transfer without an adjudication will not cause the Service to lose control over F–1 students. Failure to notify the Service that an F–1 student intends to transfer to another school is a new ground in the regulations for withdrawing the approval of a school. Furthermore, the school officials' recommendations will assist the Service in locating F–1 students who are not maintaining their status.

In addition, the Service is planning to institute procedures for looking into the cases of students whose Forms I–20A indicate that they may not have sufficient resources to pay for all costs at the schools to which they transfer and of students who transfer more than a certain number of times. The purpose in so doing is to ascertain whether these students are bona fide nonimmigrant students.

One comment suggested that school transfer not be permitted until the student has attended the old school for at least one term. Other comments were opposed to requiring a student to apply for reinstatement to student status if the student has not been pursuing a full course of study at the school the student was last authorized to attend but desires to transfer to another school.

No purpose would be served by requiring a student to attend the old school for one whole term prior to being permitted to transfer to another school provided that it is possible for the student to transfer to another school before completing the term. For example, different schools could have terms that begin at different times. A student who has not been pursuing a full course of study at the school the student was last authorized to attend, however, is out of status and should be required to apply to the Service for reinstatement to student status. Furthermore, it would be difficult to maintain control over F–1 students with school transfers not being adjudicated by the Service if out of status students were permitted to transfer without any contact with the Service. For an out of status student reinstatement is the most appropriate procedure for that contact.

Off-Campus Employment Authorization

Prior regulations permitted students to apply for employment authorization based upon economic necessity at any time. Under the proposed regulations, F–1 students would not be permitted to apply for employment authorization during their first full year in the United States.

Three individuals and one organization indicated support for the proposed work bar. Two individuals gave reasons, namely the dilemma of United States resident students seeking scarce employment and the fact that students have received assurances from their sponsors that they would be fully supported in the United States.

Fourteen individuals and organizations were opposed to the proposed work bar because they found that it would be harsh in those cases of genuine emergency resulting in funds being cut off. Three of the comments suggested that the work bar apply only during the first academic year in the United States, not during the first full year.

One comment was in favor of the Service's continuing to adjudicate applications for off-campus employment for F–1 students, while eleven comments were opposed to this. One comment expressed a desire that the provisions on off-campus employment be liberalized. Another comment suggested that F–1 students be permitted to work off-campus without demonstrating economic necessity. Other comments were in favor of greatly limiting or eliminating off-campus employment authorization for F–1 students.

Section 214.2(f)(9)(ii) of the final rule institutes the proposed provisions on off-campus employment without any substantive change. The reason for imposing a work bar on F-1 students during their first full year in the United States is that applicants for student status must furnish documentary evidence of their ability to support themselves during that year. Moreover, an application for employment authorization is normally denied during the student's first year in the United States. This provision eliminates frivolous applications for employment authorization.

Under the circumstances, the provision on off-campus employment which the Service is instituting is reasonable. The more stringent provisions suggested, however, would be unduly harsh. On the other hand, the requirement that the student demonstrate economic necessity and that the Service authorize off-campus employment minimizes any adverse effect on the employment of United States resident students seeking employment.

Practical Training

Prior regulations required that students apply to the Service for permission to engage in practical training. The proposed regulations would permit designated school officials to grant practical training authorization for F-1 students.

Twenty-nine individuals and organizations were generally in favor of the proposal that designated school officials authorize practical training for F-1 students, while fourteen individuals and organizations were generally opposed to it. Ten individuals and organizations stated specifically that they were in favor of the proposal, while seven individuals and organizations stated specifically that they were against it. Those in favor of it saw it as an efficient means of eliminating paperwork and delays in granting benefits. Those opposed felt it involved a conflict of interest. Some, as in the case of the school transfer proposal, suggested that it was an illegal delegation of authority. One comment pointed out that it would lend itself to possible fraud in obtaining work-authorized social security cards since Social Security Administration personnel would not be able to verify the authenticity of the signature of every designated school official.

In addition to the above comments on practical training, nineteen comments were against the Service's proposal to require that students have job offers before they may be granted permission to engage in practical training. The primary reason for the opposition was that it would be virtually impossible for nonimmigrant students to find work under the proposal because of the difficulty in obtaining a definite job offer without permission to engage in practical training. Eleven comments indicated that periods of practical training during the course of study, not only upon completion of the course of study, would be desirable from the point of view of the student's total training.

The Service has decided not to adopt the proposal to permit designated school officials to grant practical training authorization to F-1 students. The Service will continue to adjudicate applications for practical training for these students. The proposed regulation did raise concerns regarding the propriety of delegating decision making to individuals outside the Service. Unlike the provision on school transfer for F-1 students as a notification procedure, the proposal on practical training would have required an adjudication on the part of the designated school official. Moreover, the proposed provision could have lent itself to fraud in obtaining work-authorized social security cards.

As a result of the comments on these issues, the Service is also not adopting the proposal requiring that F-1 students have job offers before they may be granted practical training authorization, and the Service is adding a provision to § 214.2(f)(10)(i) under which practical training may be authorized for an F-1 student during the student's annual vacation if the practical training is recommended by the designated school official as beneficial to the student's academic program. This provision, however, does not increase the total months of practical training which may be authorized.

Various suggestions were made which the Service is not adopting that practical training be eliminated for some or all students. The Service believes that restrictions of this type would impede the development of knowledge and skills which occurs through meaningful practical training experiences and their subsequent transfer to other countries.

Provisions on M-1 Students

Under the proposed rule, M-1 students would be admitted for the period of time necessary to complete their courses of study plus thirty days or for one year, whichever is less. Applications would have to be made for extensions of stay, school transfer, and practical training. School transfer would not be permitted after a student has been in M-1 status for six months unless the student is unable to remain at the school to which initially admitted due to circumstances beyond the student's control. M-1 students would not be permitted to accept employment except when employment for practical training is authorized. Employment for practical training would never exceed six months. An M-1 student would not be permitted to change educational objective. An M-1 student would be eligible for reinstatement to student status, if, among other things, the student's violation of status occurred because the school to which the student was admitted ceased operation or the student was unable to pursue a full course of study due to illness. Furthermore, under the proposed rule, an M-1 student would use a Certificate of Eligibility for Nonimmigrant (M-1) Student Status, Form I-20M-N, on which the student would have to certify that the education or training which the student receives in the United States can be utilized in the student's home country and that a course of study of comparable quality and cost is unavailable to the student in the home country.

The proposed rule also provided for denial of a change of nonimmigrant classification to that of an M-1 student if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change to classification as an alien temporary worker under section 101(a)(15)(H) of the Act, 8 U.S.C. 1101(a)(15)(H), for denial of a change of classification from that of an M-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M-1 student enables the student to meet the qualifications for temporary worker classification, and for denial of a change of classification from that of an M-1 student to that of an F-1 student.

A few comments were received on the proposals concerning M-1 studends. These comments stated that the M-1 proposals were overly strict.

The Service is implementing most of the proposals on M-1 students. This is in accordance with the legislative intent that the regulations relating to M-1 students be strict. In House Report 97-264 dated October 2, 1981, which accompanied Public Law 97-116, the Committee makes it quite clear that the legislative intent of section 101(a)(15)(M)(i) of the Act relating to M students was to afford maximum control over this group of students. The report refers to testimony by the Department of State before the Subcommittee on Immigration, Refugees, and International

Law in the 94th Congress regarding "the high percentage of foreign students enrolled in vocational educational programs in fields of little or no applicability to their own country." The purpose of the separation of students into two classifications was to permit closer scrutiny of length of stay and employment abuses by nonacademic students. Furthermore, the report states that the "Committee has retained language programs in the current 'F' category on advice from INS that such schools comply with INS regulations and reporting requirements." Since the Committee noted a difference in compliance with Service regulations by the two groups of students, they obviously intended the provisions relating to those two groups of students to be different.

The limitation on the admission period for M–1 students and the requirement for filing applications for extension of stay, school transfer, and practical training are intended to afford maximum control over M–1 students. The prohibitions against a change in educational objective and against transfer to another school after six months in the United States are intended to control abuses by students who attempt to prolong their stay in the United States by making unnecessary changes in educational objectives or schools. The limitation on the amount of practical training that can be authorized recognizes that most M–1 students come to the United States for shorter periods of time than F–1 students. It also ensures against abuse of the M–1 classification as an easy way to come to the United States to work, as does the prohibition against employment authorization except employment for practical training. The proposed prohibitions against certain changes in nonimmigrant classification ensure against the use of the M–1 classification to obtain another nonimmigrant classification.

Nevertheless, in this rule, the Service is tempering the strictness of some of the provisions. In § 214.2(m)(16), M–1 students are permitted to apply for reinstatement to student status on the same basis as F–1 students. This recognizes the needs of certain students in deserving cases. The requirement that an M–1 student be offered an actual job before being eligible to apply for practical training is not being adopted in § 214.2(m)(14)(ii) for the same reason that it is being eliminated for F–1 students, namely the difficulty in finding a job without having permission to work. The requirement for a certification on Form I–20M–N that the education or training which the student receives in the United States can be utilized in the student's home country and that a course of study of comparable quality and cost is unavailable to the student in the home country is also not adopted because of the difficulty in administering it.

Record-Keeping and Reporting Requirements

Seven individuals and one organization expressed concern that their furnishing the information required by the proposed regulations would cause them to violate the Family Educational Rights and Privacy Act of 1974 or Buckley Amendment (Section 438 of the General Education Provisions Act, as amended by Pub. L. 93–568, 20 U.S.C. 1232g, December 31, 1974).

The Service believes that Form I–20 contains an effective consent by a student for release of information from the student's school records once the student signs Form I–20. The student authorizes the named school and any school to which the student transfers to provide any information from the student's records which is needed to determine if the student is maintaining lawful status. This consent appears on both Form I–20A and Form I–20M. Signing this consent is a condition of issuance of an F–1 or M–1 visa or a change of nonimmigrant status to F–1 or M–1 status. The consent is an effective method of insulating the school from an allegation that it is in violation of the Buckley Amendment. Once the consent is in existence, and it is assumed the consent exists for an F–1 or M–1 student or the Service would not have accepted Form I–20, neither the school official nor the Service officer needs physical possession of the consent when a request for information under the reporting requirements is made.

Two individuals supported the new reporting requirements on the grounds that these requirements would enable the Service to monitor the foreign student program. Nine individuals and organizations, on the other hand, were generally against or concerned about the record-keeping or reporting requirements, or both. They felt that records on foreign students should more appropriately be kept by the Service, that the Service should already have the necessary information in its records, that the information goes beyond that needed to determine whether students are maintaining nonimmigrant status, that the information should be required only for individual students and not large numbers of students, and that only information which has a bearing on immigration matters should be required. Thirteen comments were specifically against the requirement for reporting new students who register on the grounds that this is burdensome or that this is unnecessary because the schools must also report students who do not register. One of the comments suggested that, if this provision is instituted, the procedure be a very simple one. One of the comments suggested that schools provide rosters of all F–1 students enrolled but that they not report failure to register or termination of studies. Four comments expressed concern about the costs and burdens of record keeping and reporting.

Section 214.3(g)(1) institutes the record-keeping requirements as proposed with the changes discussed below. The Service believes that these requirements will enhance the Service's ability to monitor the foreign student program. This regulation, however, is really a clarification of an existing requirement, since the consent on Form I–20 already authorizes schools to give the Service any information from the student's records necessary to determine if the students are maintaining their status. As suggested in one comment, a provision is added in § 214.3(g)(1) that if a student who is out of status is restored to status, the school the student is attending is responsible for maintaining records on the student. Employment authorization is removed from the record-keeping requirements as suggested in three comments. The schools may not have this information since the Service will continue to adjudicate applications for off-campus employment. Country of citizenship is added as suggested in two comments. Otherwise, a school would possibly not be able to comply with a request for lists of students by country of citizenship if such a request should be necessary. In addition, as suggested in one comment, a requirement is added that the schools keep on file the student's application for admission to the school and the supporting documents referred to in § 214.3(k).

The Service is not adopting the requirement that the schools report within sixty days of each registration period each new student who registers and the former requirement that the schools report individual students on Forms I–20B and I–20N. Instead, § 214.3(g)(2) requires that the designated school officials update computer-generated lists of F–1 and M–1 students attending the schools when the Service sends the schools these lists. A record-keeping requirement is added in § 214.3(g)(1) that schools maintain information necessary to identify each student, such as date and place of birth,

and to determine the student's immigration status.

The requirement for updating lists of students in order to update Service records will be far less burdensome for the schools and the Service than having the schools make separate reports on each new student who registers and individual reports on Forms I–20B and I–20N. With respect to the suggetion that schools provide their own rosters of all F–1 students, this procedure would not be acceptable because it would not be in the appropriate format for Service needs.

While some of the information which the Service is requiring the schools to maintain in their records will be available in Service records, not all of it is available and must be furnished by the schools. The Service is asking the schools to verify and update the other information to insure the accuracy of Service records. The Service may not have current information on students in duration of status who may not come into contact with the Service for long periods of time; it is therefore important for the schools to keep records on these students.

Most schools normally keep records on students in attendance. It is consequently neither unreasonable nor unduly burdensome for the schools to keep records on the immigration status of their F–1 or M–1 students. It should be noted that all the information the schools are being requested to keep is directly related to the immigration status of their F–1 or M–1 students.

General Comments

Numerous comments of a general nature were made. Relevant comments are discussed below.

One comment was in favor of not implementing these regulations until Form I–20 is revised. Another comment suggested that implementation be delayed at least six months to allow adequate planning time. The Service has delayed the effective date of this rule to allow sufficient time to develop a student and schools enhancement to the Service's computerized record-keeping system and to make new and revised forms available to the public.

Six comments expressed concern regarding costs or paperwork burden of compliance with these regulations. With the modifications adopted in these final regulations, the Service believes that this concern is unfounded. As pointed out previously, the requirement the Service is instituting for updating lists of students which the Service sends the schools should be much simpler to comply with than the former requirement for making separate reports on individual students. Furthermore, most schools already keep records on students and, under prior regulations, school officials had to complete certifications on the applications which students file for extensions of stay, school transfer, and permission to engage in employment or practical training. As a result of this rule, far fewer applications for extension of stay and school transfer will need to be filed for F–1 students. This will easily compensate for any paperwork involved in the new procedure for school transfer for F–1 Students, not to mention the elimination of delays in granting school transfer to F–1 students.

Three comments suggested a review of the costs or burden of compliance with these regulations. One of these comments suggested that the review be done one year after implementation. The Service will be evaluating the program on a continual basis.

Three comments suggested workshops or meetings to instruct the public on the implementation of these regulations. The Service will continue normal liaison meeting with groups of foreign student advisors.

Technical Comments

Numerous suggestions of a technical nature were also made, many of which were adopted. Those comments which were adopted are discussed below.

With respect to the admission process for F and M nonimmigrants, one comment pointed out, regarding the requirement in § 214.2(f)(1)(i)(B) that a student be destined to the school specified in the student's visa, that the regulation should reflect that Canadian students do not need visas to enter the United States. Therefore, the wording, "unless the student is exempt from the requirement for presentation of a visa" is included in that paragraph and in a comparable provision relating to M nonimmigrants in § 214.2(m)(1)(i)(B). Two comments suggested clarification of the disposition of Form I–20B upon admission of an F–1 student. The disposition of this form is clarified in § 214.2(f)(1)(ii) relating to F–1 students, and the disposition of Form I–20M relating to M–1 students is clarified in § 214.2(m)(1)(ii). Two comments pointed out that the dependents of an F–1 student should be permitted to enter the United States to join the F–1 student even if the student has entered the United States before the beginning of classes. The Service agrees and is adding wording to § 214.2(f)(3) to permit this for F nonimmigrants and to § 214.2(m)(3) to permit this for M nonimmigrants.

In addition, as suggested in three comments, the Service is not adopting the provision which appeared in proposed § 214.2(f)(4)(ii) exempting certain F–1 students from the requirement of presenting Forms I–20 when returning to the United States after temporary absences to attend the schools which they were previously authorized to attend. The reason is that, under duration of status, these students would be able to present the same Form I–94, Arrival-Departure Records, for years after the students had failed to maintain their status unless they were required to present evidence of current enrollment in school.

Various technical changes are being made in the provisions regarding duration of status as a result of suggestions made. The wording in § 214.2(f)(5)(ii) now provides, as suggested in four comments, that the spouse and children of an F–1 student, as well as the student, are automatically granted duration of status. Two comments requested clarification of whether the I–94's of students automatically granted duration of status will be noted only when the students come into contact with the Service. Section 214.2(f)(5)(ii) provides that F–1 students need not present Forms I–94 to the Service to have the forms noted.

Three comments stated that the wording "only one of the quarters" should be changed to "any one of the quarters." This is being done in § 214.2(f)(5)(iii). In addition, as suggested in one comment, wording is added to § 214.2(f)(5)(iii) which will enable students to continue to maintain status even if the students are required to reduce their courses of study due to illness. A comparable change is made in § 214.2(m)(10)(iii) relating to extension of stay for M–1 students.

With respect to the definition of "full course of study" for F–1 students in § 214.2(f)(6), three comments suggested including postdoctoral study or research in the definition to clarify that the F–1 classification may be used for this purpose. This suggestion is being adopted. The Service is also adopting a suggestion that "semester hours" be substituted for "credit hours" in the part of the definition relating to undergraduate study at a college or university since semester hours are a more precise measurement. In the same part of the definition, on the advice of the Department of Education, the Service is adding "quarter hours . . . per academic term in those institutions using standard semester, trimester or quarter-hour systems."

Three comments suggested using the Veterans Administration's standards in the definition of "full course of study". The wording "where all undergraduate students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes" is added to the part of the definition relating to undergraduate study. This wording is largely from the Veterans Administration's standards. The Veterans Administration's standards are also being applied to the definition of "full course of study" for F-1 students as it relates to language training programs in § 214.2(f)(6) and for M-1 students as it relates to study in vocational or other nonacademic curriculums other than in language training programs in § 214.2(m)(9). Twenty clock hours of attendance a week is changed to eighteen if the dominant part of the course of study consists of classroom instruction and twenty-five clock hours a week to twenty-two hours a week if the dominant part of the course of study consists of shop or laboratory work.

One comment suggested clarification of the term "equivalent" in the definition of "full course of study". In the definitions of "full course of study" for both F-1 and M-1 students, "as determined by the district director" is added after "equivalent." In those instances where it is unclear whether the student's course load constitutes a full course of study, the district director will make the determination.

The Service is making various technical changes in the provisions on school transfer for F-1 students as a result of public comments. One comment suggested that the requirement that the student show evidence of adequate funding for the course of study be added. The wording "is financially able to attend the school to which the student intends to transfer" is added to the eligibility requirements in § 214.2(f)(8)(i). The Service is also making a comparable change in the provision relating to M-1 students in § 214.2(m)(11)(i). One comment suggested that the school official at the school the student was last authorized to attend be referred to as the "previous" school official for purposes of clarity. Wording to clarify this point is added to §214.2(f)(8)(ii). In addition, the Service is adopting a suggestion that there be a limit on the amount of time a student may remain out of school while transferring from one school to another by requiring in § 214.2(f)(8)(iv) that the student enroll in the new school in the first term or session which begins after the student leaves the previous school.

Various technical suggestions were made regarding the provision on on-campus employment for F-1 students. The Service is adopting, in § 214.2(f)(9)(i), a suggestion that on-campus employment be defined. In addition, the Service is adopting in that same paragraph, a suggestion that it be clarified that it is possible for a student to engage in on-campus employment for purposes of practical training after completion of a course of study.

Various technical suggestions were made regarding the provision on off-campus employment authorization for F-1 students. One comment suggested that the term "calendar year" not be used when referring to the period of time during which off-campus employment is prohibited since this term usually applies to the period from January 1 through December 31. Instead, "first full year" is being used in § 214.2(f)(9)(ii). Three comments suggested clarification of the length of time during which off-campus employment may be authorized. The Service is stipulating in § 214.2(f)(9)(iii) that the adjudicating officer is to specify the period of time during which employment is authorized up to the expected date of completion of the student's course of study. One comment suggested clarification of whether a student may continue off-campus employment when the student transfers from one school to another. The Service is indicating in § 214.2(f)(9)(iii) that off-campus employment authorization is terminated when the student transfers from one school to another. The reason for this is that the costs at the new school may be quite different from those at the old school.

One comment pointed out that if a student with employment authorization travels abroad, the student normally surrenders Form I-94, which has the only record of that employment authorization. The Service will issue to each nonimmigrant student upon his or her initial admission to the United States a Form I-20 ID copy which will not be surrendered when the student departs from the United States. The form will have the student's initial admission number or unique identifying number in the Service's computerized record-keeping system. The purpose of the form is to enable the Service to use the same admission number each time the student is admitted to the United States so that a new file is not created on the student each time. The form will also be endorsed to reflect any employment authorization granted to the student. Section 214.2(f)(9)(iv) explains that a student may under certain circumstances resume previously authorized employment after a temporary absence from the United States.

With respect to the provisions on reinstatement to student status for F-1 students, one comment suggested clarification of proposed § 214.2(f)(9)(iv). That paragraph, which is being redesignated as § 214.2(f)(12)(i)(D), is restated more clearly.

Four comments pointed out a need for clarification of the criteria for F-1, as opposed to M-1, classification. Section 214.3(a)(2) addresses this issue. It is expected that, at the time of the one-time recertification process, the question of which schools are approved for attendance of F—1 students, which schools are approved for attendance of M-1 students, and which schools are approved for attendance of both types of students will be resolved in those instances where it has not already been determined.

The Service is making some technical changes, based on public comments, in the provisions relating to approved schools. In § 214.3(k), "or other records of courses taken" is added after "transcripts". One comment pointed out that not all students have transcripts, especially vocational students. Two comments indicated a need for clarification of whether a school may have more than one designated official or only one. The Service is stipulating in § 214.3(l) that no school or institution may have more than five designated officials at any one time except that in a multi-campus institution, no campus may have more than five designated officials at any one time. This limitation will permit the schools to have a certain amount of flexibility without having so many designated officials that the provision is difficult to administer.

The Service is also making technical changes in the provisions relating to withdrawal of school approval as a result of public comments. The words "valid and substantive" are inserted before the word "reason" in § 214.4(a)(1). The words "academic advisor", major professor, or school counselor" are removed in § 214.4(a)(1)(iv), and the words "or recommendation" are removed from that same provision.

With respect to change of nonimmigrant classification, one comment requested an explanation of the procedures when neither applications nor fees are required. These procedures are explained in § 248.3(b).

Service Initiated Changes

The Service has made editorial changes to improve readability. The Service has also made necessary changes in paragraph designation and other necessary technical changes which came to its attention.

Sections 214.1(b) and 214.1(c) are revised to include provisions regarding the new M classification and conform them to other provisions in this rulemaking.

In both §§ 214.2(f)(1)(i)(A) and 214.2(m)(1)(i)(A), wording is added to clarify that Form I–20A–B and Form I–20M–N must be supported by the documentary evidence of the student's financial ability required by those forms.

In both proposed §§ 214.2(f)(1) and 214.2(m)(1), the sentence regarding the action taken by the inspecting officer is not adopted because of a change in the procedure due to the institution of the Form I–20 ID copy.

Sections 214.2(f)(2) and 214.2(m)(2) are added to describe the requirements concerning the newly instituted Form I–20 ID copy.

Both §§ 214.2(f)(3) and 214.2(f)(4) reflect the use of either a properly endorsed page 4 of Form I–20A–B or a new Form I–20A–B for the spouse and minor children of an F–1 student to present at the time of their applications for admission to the United States when following to join the student and for an F–1 student to present when returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend. Similarly, both §§ 214.2(m)(3) and 214(m)(4) are amended to reflect the use of either a properly endorsed page 4 of Form I–20M or a new Form I–20M–N for the spouse and minor children of an M–1 student to present at the time of their applications for admission to the United States when following to join the student and for an M–1 student to present when returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend.

In § 214.2(f)(5)(i) relating to duration of status, the Service is adding a reference to agreements between the United States and foreign countries under which passports from those countries are recognized as valid for the return of the bearers to those countries for a period of six months beyond dates of expiration of the passports.

In §§ 214.2(f)(6)(iii) and 214.2(f)(6)(iv), liberal arts, fine arts, and other nonvocational programs are added to the definition of a full course of study for F–1 students.

In §§ 214.2(f)(6)(v) and 214.2(m)(9)(iv), the term "high school" is substituted for the term "secondary" in order to conform the language more closely with the statutory language.

Section 214.2(f)(9)(i) includes an explanation of the amount of time an F–1 student may engage in on-campus employment when school is, and is not, in session. In § 214.2(f)(9)(ii), "temporary absence" is clarified to mean five months or less. In § 214.2(f)(9)(iii) relating to off-campus employment, the Service is stipulating that the adjudicating officer must endorse employment authorization on the student's Form I–20 ID copy if the application is granted. In that same paragraph, a provision provides that permission to engage in off-campus employment is terminated when the need for that employment ceases.

Section 214.2(f)(10)(i)(C) is amended to permit practical training to be authorized for an F–1 student after completion of all course requirements for the degree if the student is in a bachelor's degree program.

In §§ 214.2(f)(10)(ii)(A)(2) and 214.2(m)(14)(ii)(B), the wording "or intended future employment in the student's home country if the future employment will make use of the student's education in the United States" is not adopted. Without a job offer's being required for an application to accept practical training, this provision would be extremely difficult to administer.

In § 214.2(f)(10)(iii), the Service is permitting the adjudicating officer to grant an F–1 student not in a language training program permission to accept temporary employment for practical training for not more than twelve months if the student has been offered temporary employment for practical training or to continue temporary employment for practical training for not more than eight months. This amendment is intended to eliminate unnecessary applications for practical training.

In both §§ 214.2(f)(10)(v) and 214.2(m)(14)(iv), two sentences are added to explain that an F–1 or M–1 student who is readmitted to the United States for the remainder of an authorized period of practical training must be returning to the United States to perform the authorized practical training and may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

Section 214.2(f)(11) is added to indicate that an F–1 student may not file an appeal when an application for extension of stay, school transfer, or permission to accept or continue off-campus employment or practical training is denied.

Sections 214.2(f)(13) and 214.2(m)(17) are added to describe the requirements concerning new school code suffixes to be added to school file numbers.

Section 214.2(m)(6) provides for conversion of vocational or other nonacademic students previously in F–1 status to M–1 status on the effective date of this regulation, instead of on June 1, 1982. Section 214.2(m)(7) is added to explain the period of stay of a student already in M–1 status on the effective date of this regulation. Section 214.2(m)(8) is added to indicate that a nonimmigrant automatically converted to M status or previously in M status whose stay is affected by these regulations need not present Form I–94 to the Service.

Section 214.2(m)(9) relating to the definition of "full course of study" for M–1 students includes study at a community college, junior college or postsecondary vocational or business school.

Section 214.2(m)(11)(ii) reflects that sixty days after having filed an application for school transfer, an M–1 student may effect the transfer subject to approval or denial of the application. A comparable provision appears in § 214.2(f)(7)(iv) relating to school transfer for an F–1 student in conjunction with an application for extension of stay.

Wording in proposed § 214.2(m)(12)(ii) that if an application for practical training for an M–1 student is granted, the authorized period is deemed to commence either on the date the student begins practical training or sixty days after the student completes the course of study, whichever is earlier, is not adopted because an M–1 student may be granted only one period of practical training.

Section 214.2(m)(13) provides that a student already in M–1 status on the effective date of these regulations or a student automatically converted to M–1 status who was previously authorized off-campus employment may continue to work until the date of expiration of the previously authorized period of employment.

Section 214.2(m)(14)(i) is added to indicate when practical training may be authorized for an M–1 student. Section 214.2(m)(14)(iii) provides that the adjudicating officer must endorse permission for an M–1 student to engage in practical training and the period of time during which it is authorized on the student's I–20 ID copy. This paragraph also provides for an M–1 student to be

granted an additional thirty days within which to depart from the United States after completion of the practical training.

The admission number from the student's Form I-20 ID copy is added to the record-keeping requirements in § 214.3(g)(1). This requirement is necessary because of the implementation of the student enhancement of the Service's computerized record-keeping system.

Section 214.3(h)(2)(i) is amended to provide that the one-time recertification process for approved schools will begin on August 1, 1983 and to indicate that the Service, but not necessarily the district directors, must notify the schools regarding the one-time recertification process.

In sections 214.3(h)(2)(ii) and 214.4(a)(2), the effective date of the automatic withdrawal of a school's approval is added.

Section 214.3(l) is amended to reflect that the names, titles, sample signatures, and statements of new designated school officials must be submitted to the Service within thirty days.

Section 214.4(a)(1) is added to include failure to comply with section 214.3(g)(1) without a subpoena as another ground for withdrawal of a school's approval.

In section 214.4(a)(1)(iv), the wording "statement or" is added before the word "certification" and the wording "school transfer or" is substituted for "practical training authorization."

Other sections are amended to include provisions relating to the newly devised Form I-20 ID copy.

Commissioner's Certification

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record-keeping and reporting requirements, compliance with them will not result in a significant effect on the economy or operation of the affected institutions or individuals. The rule is not a major rule within the meaning of section 1(b) of EO 12291.

List of Subjects

8 CFR Part 214

Aliens, Employment, Schools, Students.

8 CFR Part 248

Administrative practice and procedure, Aliens.

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

PART 214—NONIMMIGRANT CLASSES

1. In § 214.1, paragraphs (b) and (c) are revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(b) *Readmission of nonimmigrants under section 101(a)(15) (F), (J), or (M) to complete unexpired periods of previous admission or extension of stay.*—(1) *Section 101(a)(15)(F).* The inspecting immigration officer shall readmit for duration of status as defined in § 214.2(f)(5)(iii), any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(F) of the Act, if the alien:

(i) Is admissible;

(ii) Is appplying for readmission after an absence from the United States not exceeding thirty days solely in contiguous territory or adjacent islands;

(iii) Is in possession of valid passport unless exempt from the requirement for presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, an Arrival-Departure Record, Form I-94, issued to the alien in connection with the previous admission or stay, the alien's Form I-20 ID copy, and either:

(A) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(B) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(2) *Section 101(a)(15)(J).* The inspecting immigration officer shall readmit for the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(J) of the Act, if the alien:

(i) Is admissible;

(ii) Is applying for readmission after an absence from the United States not exceeding thirty days solely in contiguous territory or adjacent islands;

(iii) Is in possession of a valid passport unless exempt from the requirement for the presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, Form I-94 issued to the alien in connection with the previous admission or stay or copy three of the last Form IAP-66 issued to the alien. Form I-94 or Form IAP-66 must show the unexpired period of the alien's stay endorsed by the Service.

(3) *Section 101(a)(15)(M).* The inspecting immigration officer shall readmit for the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(M) of the Act, if the alien:

(i) Is admissible;

(ii) Is applying for readmission after an absence not exceeding thirty days solely in contiguous territory;

(iii) Is in possession of valid passport unless exempt from the requirement for presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, Form I-94 issued to the alien in connection with the previous admission or stay, the alien's Form I-20 ID copy, and a properly endorsed page 4 of Form I-20M-N.

(c) *Extension of stay.*—(1) *General.* Any nonimmigrant alien defined in section 101(a)(15) (A) (i) or (ii) or (G)(i), (ii), (iii), or (iv) of the Act is to be admitted for, or granted a change of nonimmigrant classification for, as long as that alien continues to be recognized by the Secretary of State for that status. The alien need not apply for an extension of stay. Any nonimmigrant alien defined in section 101(a)(15) (C), (D), or (K) of the Act, or any alien admitted in transit without a visa, is ineligible for an extension of stay. A nonimmigrant defined in section 101(a)(15) (F) or (M) of the Act shall apply for an extension of stay on Form I-538. A nonimmigrant alien defined in section 101(a)(15)(J) of the Act shall apply for an extension of stay on Form IAP-66. An alien in any other nonimmigrant classification shall apply for an extension of stay on Form I-539. Except as provided in paragraph (c)(3) of this section, each alien seeking an extension of stay generally must execute and submit a separate application for extension of stay to the district office having jurisdiction over the alien's place of temporary residence in the United States.

(2) *Time of filing application.* The application must be submitted at least fifteen days but not more than sixty days before the expiration of the alien's currently authorized stay. If failure to file a timely application is found to be excusable, an extension of stay may be granted, but the extension must date

from the time of expiration of the previously authorized stay.

(3) *Family members of principal alien.* Regardless of whether a principal nonimmigrant alien's spouse and minor unmarried children accompanied the principal alien to the United States, the spouse and children may be included in the principal alien's application for extension of stay without any additional fee. Extensions granted to members of a family group must be for the same period of time. If one member is eligible for only a six-month extension and another for a twelve-month extension, the shorter period will be granted to all members of the family.

(4) *Decision on application for extension of stay.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(5) *Less than thirty days' additional time.* When, because of conditions beyond an alien's control or other special circumstances, an alien needs an additional period of less than thirty days beyond the previously authorized stay within which to depart from the United States, the alien may present the alien's Form I-94 or, in the case of a nonimmigrant defined in section 101(a)(15) (F) or (M) of the Act, the alien's Form I-20 ID copy, at the district office having jurisdiction over the alien's place of temporary residence in the United States. The requested time may be granted without a formal application.

(6) *Bonds.* For procedures on cancellation and breaching of bonds, see §§ 101.6 (c) and (e) of this chapter.

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2. Section 214.2(f) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*—(1) *Admission of student.*—(i) *Eligibility for admission.* Except as provided in paragraph (f)(4) of this section, an alien seeking admission to the United States under section 101(a)(15)(F)(i) of the Act (as an F-1 student) and the student's accompanying F-2 spouse and minor children, if applicable, are not eligible for admission unless—

(A) The student presents a Certificate of Eligibility for Nonimmigrant (F-1) Student Status, Form I-20A-B, properly and completely filled out by the student and by the designated official of the school to which the student is destined and the documentary evidence of the student's financial ability required by that form; and

(B) It is established that the student is destined to and intends to attend the school specified in the student's visa, unless the student is exempt from the requirement for presentation of a visa.

(ii) *Disposition of Form I-20A-B.* When a student is admitted to the United States, the inspecting officer shall forward Form I-20A-B to the Service's processing center. The processing center shall forward the Form I-20B to the school which issued the form to notify the school of the student's admission.

(2) *Form I-20 ID copy.* The first time an F-1 student comes into contact with the Service for any reason, the student must present to the Service a Form I-20A-B properly and completely filled out by the student and by the designated official of the school the student is attending or intends to attend. The student will be issued a Form I-20 ID copy with his or her admission number. The student must have the Form I-20 ID copy with him or her at all times. If the student loses the Form I-20 ID copy, the student must request a new Form I-20 ID copy on Form I-102 from the Service office having jurisdiction over the school the student was last authorized to attend.

(3) *Spouse and minor children following to join student.* The F-2 spouse and minor children following to join an F-1 student are not eligible for admission to the United States unless they present, as evidence that the student is or will, within sixty days, be enrolled in a full course of study or is engaged in approved practical training, either—

(i) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(ii) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(4) *Temporary absence.*—(i) *General.* An F-1 student returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend must present either—

(A) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(B) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(ii) *Student who transferred between schools.* If an F-1 student has been authorized to transfer between schools and is returning to the United States from a temporary absence in order to attend the school to which transfer was authorized as indicated on the student's Form I-20 ID copy, the name of the school to which the student is destined does not need to be specified in the student's visa.

(5) *Duration of status.*—(i) *General.* Subject to the condition that the alien's passport is valid for a minimum period of six months at all times while in the United States (including any automatic revalidation accorded by agreement between the United States and the country which issued the alien's passport) unless the alien is exempt from the requirement for presentation of a passport.

(A) Any alien admitted to the United States as an F-1 student is to be admitted for duration of status as defined in paragraph (f)(5)(iii) of this section; and

(B) Any alien granted a change of nonimmigrant classification to that of an F-1 student is considered to be in status for duration of status as defined in paragraph (f)(5)(iii) of this section.

(ii) *Conversion to duration of status.* Any F-1 student in a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The dependent spouse and children of the student are also automatically granted duration of status if they are maintaining F-2 status. Any alien converted to duration of status under this paragraph need not present Form I-94 to the Service. This paragraph constitutes official notification of conversion to duration of status. The Service will issue a new Form I-94 to the alien when the alien comes into contact with the Service.

(iii) *Meaning of duration of status.* For purposes of this chapter, duration of status means the period during which the student is pursuing a full course of study in one educational program (e.g., elementary school, high school, bachelor's degree program, or master's degree program) and any period or periods of authorized practical training, plus thirty days following completion of the course of study or authorized practical training within which to depart

from the United States. An F-1 student at an academic institution is considered to be in status during the summer if the student is eligible, and intends, to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer, however, is considered to be in status during that vacation provided that the student is eligible, and intends, to register for the next term and the student has completed the equivalent of an academic year prior to taking the vacation. An F-1 student who is compelled by illness to interrupt or reduce a course of study may be permitted to remain in the United States in duration of status for the time necessary to complete the course of study provided that it is established that the student will pursue a full course of study upon recovery from the illness.

(6) *Full course of study.* Successful completion of the course of study must lead to the attainment of a specific educational or professional objective. For purposes of this paragraph, a college or university is an institution of higher learning which awards recognized associate, bachelor's, master's, doctor's, or professional degrees. Schools which devote themselves exclusively or primarily to vocational, business, or language instruction are not included in the category of colleges or universities. A "full course of study" as required by section 101(a)(15) (F)(i) of the Act means:

(i) Postgraduate study or postdoctural study or research at a college or university, or undergraduate or postgraduate study at a conservatory or religious seminary, certified by a designated school official as a full course of study;

(ii) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, where all undergraduate students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by the district director) except when the student needs a lesser course load to complete the course of study during the current term;

(iii) Study in a postsecondary language, liberal arts, fine arts, or other nonvocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent as determined by the district director;

(iv) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week provided that the dominant part of the course of study consists of classroom instruction and twenty-two clock hours a week provided that the dominant part of the course of study consists of laboratory work; or

(v) Study in a primary or academic high school curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

(7) *Extension of stay.*—(i) *General.* Any F-1 student who has completed or has been pursuing a full course of study in one educational program and who wishes to complete another educational program must apply for an extension of stay. Any F-1 student who has completed one educational program and who desires to complete another educational program at the same level of educational attainment, for example, a second master's degree, must also apply for an extension of stay. If the student also wishes to transfer to another school, the student must apply for a school transfer in the same application. If the student has not been pursuing a full course of study at the school the student was last authorized to attend, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section.

(ii) *Eligibility.* An F-1 student may be granted an extension of stay if it is established that the student:

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(iii) *Application.* An F-1 student must apply for an extension of stay on Form I-538. A student's F-2 spouse and children desiring an extension of stay must be included in the application. A student's F-2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend at least fifteen days but not more than sixty days before the expiration of the student's currently authorized stay. The application must be accompanied by the student's Form I-20 ID copy, and the Forms I-94 of the student's spouse and children, if applicable.

(iv) *School transfer in conjunction with an application for extension of stay.* If an F-1 student wishes to transfer to another school upon completion of an educational program, the student's application for extension of stay and school transfer must be accompanied by Form I-20A-B properly and completely filled out by the student and by the designated official of the school the student wishes to attend. Sixty days after having filed an application for extension of stay and school transfer, an F-1 student may effect the transfer subject to approval or denial of the application. Any F-1 student who transfers without complying with this regulation or whose application is denied after transfer is considered to be out of status. If the application for transfer is approved, the approval of the transfer will be retroactive to the date of filing the application. The adjudicating officer shall endorse the name of the school to which the transfer has been authorized on the student's Form I-20 ID copy. The officer shall also endorse Form I-20B to indicate that a school transfer has been authorized and forward it with Form I-20A to the Service's processing center for file updating. The processing center shall forward Form I-20B to the school to which transfer has been authorized to notify the school of the action taken.

(v) *Period of stay.* If an application for extension of stay is granted, the student and the student's spouse and children, if applicable, are to be granted duration of status as defined in paragraph (f)(5)(iii) of this section.

(8) *School transfer within the same educational program.*—(i) *Eligibility.* An F-1 student is eligible to transfer to another school if the student:

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Procedure at school student was last authorized to attend.* Except in

conjunction with an application for extension of stay as provided in paragraph (f)(7) of this section, an F-1 student who wants to transfer between schools must obtain from the school to which the student intends to transfer a properly completed Form I-20A-B relating to the student's eligibility for F-1 status. The student must give the Form I-20A-B to the school the student was last authorized to attend. The designated official of the school which the student was last authorized to attend must:

(A) Endorse Form I-20 Transfer to reflect the fact that the student has indicated the intent to transfer between schools and to give the recommendation of the designated school official at the school the student was last authorized to attend concerning the proposed transfer and the reasons for that recommendation if it is negative;

(B) Submit the endorsed Form I-20 Transfer with Form I-20A to the Service's processing center within thirty days of the date the student gave the official the Form I-20A-B.

(C) Send Form I-20B to the school to which the student intends to transfer to notify that school that Form I-20 Transfer has been submitted to the Service; and

(D) Give to the student the student transfer copy of Form I-20 Transfer within thirty days of the date the student gave the official a copy of the Form I-20A-B.

(iii) *Procedure at school to which the student transfers.* Within thirty days of the date the student registers at the new school, the designated school official at that school must endorse the student's Form I-20 ID copy to indicate the name of the school to which the student has transferred and the name, title, and signature of the designated school official of that school.

(iv) *General.* Except as provided in paragraph (f)(7)(iv) of this section, an F-1 student is authorized to transfer from one approved school to another if the procedures described in paragraphs (f)(8) (ii) and (iii) of this section are followed. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, a student who transfers to another school without furnishing to the designated official of the school the student was last authorized to attend a properly completed Form I-20A-B from the school the student intends to attend is considered to be out of status. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, if the designated school official at the school the student was last authorized to attend does not follow the procedure described in paragraph (f)(8)(ii) of this section, the student is considered to be out of status unless the student reports this noncompliance with the regulations, in writing, to the Service office having jurisdiction over that school, within forty days of the date the student gave the official the copy of Form I-20A-B. Any student who does not enroll in the new school in the first term or session which begins after the student leaves the previous school is considered to be out of status; however, if the student is entitled to a vacation as provided in paragraph (f)(5)(iii) of this section, the student may enroll in the new school in the first term or session which begins after that vacation. If a student who has not been pursuing a full course of study at the school the student was last authorized to attend desires to attend a different school, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, if a student transfers to an approved school other than the one to which the student initially indicated the intent to transfer, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section.

(9) *Employment.*—(i) *On-campus employment.* On-campus employment means employment performed on the school's premises. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. An F-1 student may, therefore, engage in this kind of on-campus employment or any other on-campus employment which will not displace a United States resident. Employment authorized under this paragraph must not exceed twenty hours a week while school is in session. An F-1 student authorized to work under this paragraph however, may work full-time when school is not in session (including during the student's vacation) if the student is eligible, and intends, to register for the next term or session. The student may not engage in on-campus employment after completion of the student's course or courses of study, except employment for practical training as authorized under paragraph (f)(10) of this section.

(ii) *Application for off-campus employment.* Off-campus employment is prohibited for students who remain in the United States in F-1 status for one year or less. Off-campus employment is also prohibited during the first year in the United States for students who remain in the United State in F-1 status for more than one year. If a student pursues more than one course of study, off-campus employment is prohibited only during the first year of study in the United States. The first year of study means the first full year in the United States in bona fide F-1 status. A temporary absence of five months or less from the United States during the first full year does not disqualify an F-1 student from being eligible for employment authorization. An F-1 student in a program longer than one year must apply for employment authorization on Form I-538 accompained by the student's Form I-20 ID copy. The student must submit the application to the office of this Service having jurisdiction over the school the student was last authorized to attend. The designated school official must certify on Form I-538 that the student—

(A) Is in good standing as a student who is carrying a full course of study as defined in paragraph (f)(6) of this section;

(B) Has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification;

(C) Has demonstrated that acceptance of employment will not interfere with the student's carrying a full course of study; and

(D) Has agreed not to work more than twenty hours a week when school is in session.

(iii) *Conditions for off-campus employment.* If off-campus employment is authorized, the adjudicating officer shall endorse the authorization on the student's Form I-20 ID copy and shall note the dates on which the employment authorization begins and ends. The employment authorization may be granted up to the expected date of completion of the student's current course of study. A student has permission to engage in off-campus employment only if the student receives his or her Form I-20 ID copy endorsed to that effect. Off-campus employment authorized under this section must not exceed twenty hours a week while school is in session. Any student authorized to work off-campus, however, may work full-time when school is not in session (including during the student's vacation) if the student is eligible, and intends, to register for the next term or session. Permission to engage in off-campus employment is terminated when the student transfers from one school to another or when the need for that employment ceases. Furthermore, a student may not engage in off-campus employment after

completion of the student's course or courses of study except as authorized under paragraph (f)(10) of this section.

(iv) *Temporary absence of F-1 student granted off-campus employment authorization.* If a student who has been granted off-campus employment authorization departs from the United States temporarily and is readmitted to the United States during the period of time when employment is authorized, the student may resume the previously authorized employment. The student must be returning to attend the same school the student was authorized to attend when permission to accept off-campus employment was granted.

(v) *Effect of strike or other labor dispute.* Authorization for all employment, whether or not part of an academic program, is automatically susended upon certification by the Secretary of Labor or the Secretary's designee to the Commissioner of Immigration and Naturalization or the Commissioner's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or a joint employer does business.

(vi) *Spouse and children of F-1 student.* The F-2 spouse and children of an F-1 student may not accept employment.

(10) *Practical training.*—(i) *When practical training may be authorized.* Temporary employment for practical training may be authorized only—

(A) After completion of the course of study if the student intends to engage in only one course of study;

(B) After completion of at least one course of study if the student intends to engage in more than one course of study;

(C) After completion of all course requirements for the degree if the student is in a bachelor's, master's, or doctoral degree program;

(D) Before completion of the course of study if the student is attending a college, university, seminary, or conservatory which requires practical training of all degree candidates in a specified professional field and the student is a candidate for a degree in that field; or

(E) Before completion of the course of study during the student's annual vacation if recommended by the designated school official as beneficial to the student's academic program.

(ii) *Application for practical training.*—(A) *General.* An F-1 student must apply for permission to accept or continue employment for practical traning on Form I-538 accompanied by the student's Form I-20 ID copy. The designated school official must certify on form I-538 that—

(1) The proposed employment is for the purpose of practical training;

(2) The proposed employment is related to the student's course of study;

(3) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(B) *Application to accept practical training after completion of course of study.* A student must file an application for permission to accept practical training after completion of a course of study not more than sixty days before completion of the course of study, nor more than thirty days after completion of the course of study. The application must be submitted to the Service office having jurisdiction over the school the student was last authorized to attend. The student need not have been offered temporary employment for practical training.

(C) *Application to continue practical training after completion of course of study.* A student must file an application for permission to continue employment for practical training after completion of a course of study at least fifteen days but not more than sixty days before the expiration of the applicant's currently authorized practical training. The application must be submitted to the Service office having jurisdiction over the actual place of employment. It must be accompanied by a letter from the applicant's employer stating the applicant's occupation, the exact date employment began, and the date the employment will terminate, and describing in detail the duties of the applicant's occupation.

(D) *Application for practical training before completion of course of study.* A student must submit an application for permission to engage in practical training before completion of the course of study to the Service office having jurisdiction over the school the student was last authorized to attend. The student need not have been offered temporary employment for practical training unless the student is applying for permission to continue practical training. In that case, the application must be accompanied by a letter from the student's employer stating the student's occupation, the exact date employment began, and the date the employment will terminate, and describing in detail the duties of the student's occupation.

(iii) *Duration of practical training.* If permission to engage in employment for practical training is granted, the adjudicating officer shall endorse the permission on the student's Form I-20 ID copy and shall note on that form the dates on which the practical training permission begins and ends. A student may engage in employment for practical training only when the student receives the Form I-20 ID copy endorsed to that effect. Provided that the student's course of study is of at least twelve months' duration, the Service may grant a student not in a language training program permission to accept temporary employment for practical training for six months or less if the student has not been offered temporary employment for practical training; for twelve months or less if the student has been offered temporary employment for practical training; or to continue temporary employment for practical training for eight months or less. The period of practical training which may be granted during a student's vacation, however, is limited to the length of the vacation rounded off to the closest number of months. A student may not be granted a period of practical training which would result in the student's being engaged in practical training for more than twelve months in the aggregate. When the course of study is of less than twelve months' duration, an F-1 student not in a language training program may be granted permission to engage in employment for practical training for an aggregate number of months not exceeding the length of the student's course of study. An F-1 student in a language training program may be granted employment for practical training for a period or periods of time equal to one month for each four months during which the student carried a full course of study at the school(s) the student was authorized to attend in the United States. Practical training authorized after completion of a course of study is deemed to commence on the date the student begins employment or sixty days after completion of the course of study, whichever is earlier. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the student is eligible. In such a case, the student may, upon graduation, apply for a change to another nonimmigrant classification which would permit the student's accepting employment.

(iv) *Alternate work/study courses.* An F-1 student enrolled in a college, university, conservatory or seminary having alternate work/study courses as a part of the regular curriculum

available within the student's program of study may participate in those courses without obtaining a change of status and without obtaining permission to accept employment. Periods of actual off-campus employment which are part of a work/study program, however, are considered to be practical training. They, therefore, must be deducted from the total practical training time for which the student is eligible.

(v) *Temporary absence of F-1 student granted practical training.* An F-1 student who has been granted permission to accept employment for practical training and who departs from the United States temporarily, may be readmitted for the remainder of the authorized period indicated on the student's Form I-20 ID copy. The student must be returning to the United States to perform the authorized practical training. A student may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

(11) *Decision on application for extension, permission to transfer to another school, or permission to accept or continue off-campus employment or practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason or reasons for the denial. The applicant may not appeal the decision.

(12) *Reinstatement to student status.*—(i) *General.* A district director may consider reinstating to F-1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an F-1 student and who has overstayed the authorized period of stay or who has otherwise violated the conditions of his or her status only if the student—

(A) Establishes to the satisfaction of the district director that the violation of status resulted from circumstances beyond the student's control or that failure to receive reinstatement to lawful F-1 status would result in extreme hardship to the student;

(B) Makes a written request for reinstatement accompanied by a properly completed Form I-20A-B from the school the student is attending or intends to attend and the student's Form I-20 ID copy;

(C) Is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I-20A-B;

(D) Has not been employed off-campus without authorization, or, as a fulltime student, has continued on-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship or other on-campus employment which did not displace a United States resident after the expiration of the authorized period of stay; and

(E) Is not deportable on any ground other than section 241(a)(2) or (9) of the Act.

(ii) *Decision.* If the district director reinstates the student, the district director shall endorse Form I-20B and the student's Form I-20 ID copy to indicate that the student has been reinstated, return the Form I-20 ID copy to the student, and forward Form I-20B with Form I-20A to the Service's processing center for file updating. The processing center shall forward Form I-20B to the school which the student is attending or intends to attend to notify the school of the student's reinstatement. If the district director does not reinstate the student, the student may not appeal that decision.

(13) *School code suffix on Form I-20A-B .* Each school system, other than an elementary or secondary school system, approved prior to August 1, 1983 for attendance by F-1 students must assign permanent consecutive numbers to all schools within its system. The number of the school within the system which an F-1 student is attending or intends to attend must be added as a three-digit suffix following a decimal point after the school file number on Form I-20A-B (e.g. .001). If an F-1 student is attending or intends to attend an elementary or secondary school in a school system or a school which is not part of a school system, a suffix consisting of a decimal point followed by three zeros must be added after the school file number on Form I-20A-B. The Service will assign school code suffixes to those schools it approves beginning August 1, 1983. No Form I-20A-B will be accepted after August 1, 1983 without the appropriate three-digit suffix.

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§ 214.2 [Amended]

3. The existing § 214.2(m) is redesignated as § 214.2(n) and the following new § 214.2(m) is added:

* * * * *

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*—(1) *Admission of student.*—(i) *Eligibility for admission.* Except as provided in paragraph (m)(4) of this section, an alien seeking admission to the United States under section 101(a)(15)(M)(i) of the Act (as an M-1 student) and the student's accompanying M-2 spouse and minor children, if applicable, are not eligible for admission unless—

(A) The student presents a Certificate of Eligibility for Nonimmigrant (M-1) Student Status, Form I-20M-N, properly and completely filled out by the student and by the designated official of the school to which the student is destined and the documentary evidence of the student's financial ability required by that form; and

(B) It is established that the student is destined to and intends to attend the school specified in the student's visa unless the student is exempt from the requirement for presentation of a visa.

(ii) *Disposition of Form I-20M-N.* When a student is admitted to the United States, the inspecting officer shall forward Form I-20M-N to the Service's processing center. The processing center shall forward Form I-20N to the school which issued the form to notify the school of the student's admission.

(2) *Form I-20 ID copy.* The first time an M-1 student comes into contact with the Service for any reason, the student must present to the Service a Form I-20M-N properly and completely filled out by the student and by the designated official of the school the student is attending or intends to attend. The student will be issued a Form I-20 ID copy with his or her admission number. The student must have the Form I-20 ID copy with him or her at all times. If the student loses the Form I-20 ID copy, the student must request a new Form I-20 ID copy on Form I-102 from the Service office having jurisdiction over the school the student was last authorized to attend.

(3) *Spouse and minor children following to join student.* The M-2 spouse and minor children following to join an M-1 student are not eligible for admission to the United States unless they present, as evidence that the student is or will, within sixty days, be enrolled in a full course of study or is engaged in approved practical training, either—

(i) A properly endorsed page 4 of Form I-20M-N if there has been no substantive change in the information on the student's most recent Form I-20M since the form was initially issued; or

(ii) A new Form I-20M-N if there has been any substantive change in the information on the student's most recent Form I-20M since the form was initially issued.

(4) *Temporary absence.*—(i) *General.* An M-1 student returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend must present either—

(A) A properly endorsed page 4 of Form I–20M–N if there has been no substantive change in the information on the student's most recent Form I–20M since the form was initially issued; or

(B) A new Form I–20M–N if there has been any substantive change in the information on the student's most recent Form I–20M since the form was initially issued.

(ii) *Student who transferred between schools.* If an M–1 student has been authorized to transfer between schools and is returning to the United States from a temporary absence in order to attend the school to which transfer was authorized as indicated on the student's Form I–20 ID copy, the name of the school to which the student is destined does not need to be specified in the student's visa.

(5) *Period of stay.* An alien admitted to the United States as an M–1 student is to be admitted for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. An alien granted a change of nonimmigrant classification to that of an M–1 student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less.

(6) *Conversion to M–1 status of students in established vocational or other recognized nonacademic institutions, other than in language training programs, who were F–1 students prior to June 1, 1982.* A student in an established vocational or other recognized nonacademic institution, other than in a language training program, who is in status as an F–1 student under section 101(a)(15)(F)(i) of the Act in effect prior to June 1, 1982 and the student's F–2 spouse and children, if applicable, are—

(i) Automatically converted to M–1 and M–2 status respectively; and

(ii) Limited to the authorized period of stay shown on their Forms I–94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires one year from August 1, 1983, whichever is less.

(7) *Period of stay of student already in M–1 status.* A student in an established vocational or other recognized nonacademic institution, other than in a language training program, who is already in M–1 status and the student's M–2 spouse and children, if applicable, are limited to the authorized period of stay shown on their Forms I–94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires one year from August 1, 1983, whichever is less.

(8) *Issuance of new I–94.* A nonimmigrant whose status is affected by paragraph (m)(6) or (m)(7) of this section need not present Form I–94 to the Service. Either paragraph constitutes official notification to a student whose status is affected by it of that status. The Service will issue a new Form I–94 to an alien whose status is affected by either paragraph when that alien comes into contact with the Service.

(9) *Full course of study.* Successful completion of the course of study must lead to the attainment of a specific educational or vocational objective. A "full course of study" as required by section 101(a)(15)(M)(i) of the Act means—

(i) Study at a community college or junior college, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, where all students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by the district director) except when the student needs a lesser course load to complete the course of study during the current term;

(ii) Study at a postsecondary vocational or business school, other than in a language training program except as provided in § 214.3(a)(2)(iv), which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) and (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent as determined by the district director;

(iii) Study in a vocational or other nonacademic curriculum, other than in a language training program except as provided in § 214.3(a)(2)(iv), certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-two clock hours a week if the dominant part of the course of study consists of shop or laboratory work; or

(iv) Study in a vocational or other nonacademic high school curriculum, certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

(10) *Extension of stay.*—(i) *Eligibility.* An M–1 student may be granted an extension of stay if it is established that the student—

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(ii) *Application.* An M–1 student must apply for an extension of stay on Form I–538. A student's M–2 spouse and children desiring an extension of stay must be included in the application. A student's M–2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend at least fifteen days but not more than sixty days before the expiration of the student's currently authorized stay. The application must also be accompanied by the student's Form I–20 ID copy and the Forms I–94 of the student's spouse and children, if applicable.

(iii) *Period of stay.* If an application for extension of stay is granted, the student and the student's spouse and children, if applicable, are to be given an extension of stay for the period of time necessary to complete the course of study plus thirty days within which to depart from the United States or for one year, whichever is less. An M–1 student who has been compelled by illness to interrupt or reduce a course of study may be granted an extension of stay without being required to change nonimmigrant classification provided that it is established that the student will pursue a full course of study upon recovery from the illness.

(11) *School transfer.*—(i) *Eligibility.* An M–1 student may not transfer to another school after six months from the date the student is first admitted as, or changes nonimmigrant classification to that of, an M–1 student unless the student is unable to remain at the school to which the student was initially admitted due to circumstances beyond the student's control. An M–1 student may be otherwise eligible to transfer to another school if the student—

(A) Is a bona fide nonimmigrant;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Procedure.* An M–1 student must apply for permission to transfer between schools on Form I–538 accompanied by the student's Form I–20 ID copy and the Forms I–94 of the student's spouse and children, if applicable. The Form I–538 must also be accompanied by Form I–20M–N properly and completely filled out by the student and by the designated official of the school which the student wishes to attend. The student must submit the application for school transfer to the Service office having jurisdiction over the school the student was last authorized to attend. Sixty days after having filed an application for school transfer, an M–1 student may effect the transfer subject to approval or denial of the application. An M–1 student who transfers without complying with this regulation or whose application is denied after transfer pursuant to this regulation is considered to be out of status. If the application is approved, the approval of the transfer will be retroactive to the date of filing the application, and the student will be granted an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. The adjudicating officer must endorse the name of the school to which transfer is authorized on the student's Form I–20 ID copy. The officer must also endorse Form I–20N to indicate that a school transfer has been authorized and forward it with Form I–20M to the Service's processing center for file updating. The processing center shall forward Form I–20N to the school to which the transfer has been authorized to notify the school of the action taken.

(iii) *Student who has not been pursuing a full course of study.* If an M–1 student who has not been pursuing a full course of study at the school the student was last authorized to attend desires to attend a different school, the student must apply for reinstatement to student status under of paragraph (m)(16) of this section.

(12) *Change in educational objective.* An M–1 student may not change educational objective.

(13) *Employment.* Except as provided in paragraph (m)(14) of this section, M–1 students may not accept employment. A student already in M–1 status on August 1, 1983 or a student converted to M–1 status under paragraph (m)(6) of this section who was authorized off-campus employment under the regulations previously in effect, however, may continue to work until the date of expiration of the previously authorized period of employment. The M–2 spouse and children of an M–1 student may not accept employment.

(14) *Practical training.*—(i) *When practical training may be authorized.* Temporary employment for practical training may be authorized only after completion of the student's course of study.

(ii) *Application.* An M–1 student must apply for permission to accept employment for practical training on Form I–538 accompanied by the student's Form I–20 ID copy. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend. The application must be submitted prior to the expiration of the student's authorized period of stay and not more than sixty days before nor more than thirty days after completion of the course of study. The designated school official must certify on Form I–538 that—

(A) The proposed employment is recommended for the purpose of practical training;

(B) The proposed employment is related to the student's course of study; and

(C) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(iii) *Duration of practical training.* If permission to engage in employment for practical training is granted, the adjudicating officer shall endorse the permission on the student's Form I–20 ID copy and shall note the dates on which the practical training permission begins and ends. The student has permission to engage in employment for practical training only if and when the student receives the Form I–20 ID copy endorsed to that effect. The student may be granted one period of practical training for a period of time equal to one month for each four months during which the student pursued a full course of study, but not to exceed six months, plus an additional thirty days within which to depart from the United States. Permission to accept employment may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible.

(iv) *Temporary absence of M–1 student granted practical training.* An M–1 student who has been granted permission to accept employment for practical training and who temporarily departs from the United States, may be readmitted for the remainder of the authorized period indicated on the student's Form I–20 ID copy. The student must be returning to the United States to perform the authorized practical training. A student may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

(v) *Effect of strike or other labor dispute.* Authorization for all employment for practical training is automatically suspended upon certification by the Secretary of Labor or the Secretary's designee to the Commissioner of Immigration and Naturalization or the Commissioner's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or joint employer does business.

(15) *Decision on application for extension, permission to transfer to another school, or permission to accept employment for practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(16) *Reinstatement to student status.*—(i) *General.* A district director may consider reinstating to M–1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an M–1 student and who has overstayed the authorized period of stay or who has otherwise violated the conditions of his or her status only if—

(A) The student establishes to the satisfaction of the district director that the violation of status resulted from circumstances beyond the student's control or that failure to receive reinstatement to lawful M–1 status would result in extreme hardship to the student;

(B) The student makes a written request for reinstatement accompanied by a properly completed Form I–20M–N from the school the student is attending or intends to attend and the student's Form I–20 ID copy;

(C) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I–20M–N;

(D) The student has not been employed without authorization; and

(E) The student is not deportable on any ground other than section 241(a)(2) or (9) of the Act.

(ii) *Decision.* If the district director reinstates the student, the district director shall endorse Form I–20N and the student's Form I–20 ID copy to indicate that the student has been reinstated, return the Form I–20 ID copy to the student, and forward Form I–20N with Form I–20M to the Service's processing center for file updating. The processing center shall forward Form I–20N to the school which the student is attending or intends to attend to notify the school of the student's reinstatement. If the district director does not reinstate the student, the student may not appeal that decision.

(17) *School code suffix on Form I–20M–N.* Each school system, other than a secondary school system approved prior to August 1, 1983 for attendance by M–1 students must assign permanent consecutive numbers to all schools within its system. The Number of the school within the system which an M–1 student is attending or intends to attend must be added as a three-digit suffix following a decimal point after the school file number on Form I–20M–N (e.g. .001). If an M–1 student is attending or intends to attend a secondary school in a school system or a school which is not part of a school system, a suffix consisting of a decimal point followed by three zeros must be added after the school file number on Form I–20M–N. The Service will assign school code suffixes to those schools it approves beginning August 1, 1983. No Form I–20M–N will be accepted after August 1, 1983 without the appropriate three-digit suffix.

* * * * *

4. Section 214.3 is amended by removing the words "Office of Education" and "Education Directory, Higher Education" from paragraph (b) and inserting, in their place, the words "Department of Education" and "Education Directory, Colleges and Universities," respectively and by removing the words "Office of Education," "Education Directory, Higher Education" and "Office" from paragraph (c) and inserting, in their place, the words "Department of Education," "Education Directory, Colleges and Universities", and "Department" respectively. Section 214.3 is amended further by revising paragraphs (a), (e), (g), (h), (i), and (k) and by adding new paragraph (l) to read as follows:

§ 214.3 Petitions for approval of schools.

(a) *Filing petition.*—(1) *General.* A school or school system seeking approval for attendance by nonimmigrant students under sections 101(a)(15)(F)(i) or 101 (a)(15)(M)(i) of the Act, or both, shall file a petition on Form I–17 with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and address those schools included in the petition. The petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act: or both.

(2) *Approval for F–1 or M–1 classification, or both.*—(i) *F–1 classification.* The following schools may be approved for attendance by nonimmigrant students under section 101(a)(15)(F)(i) of the Act:

(A) A college or university, i.e., and institution of higher learning which awards recognized bachelor's, master's doctor's or professional degrees.

(B) A community college or junior college which provides instruction in the liberal arts or in the professions and which awards recognized associate degrees.

(C) A seminary.

(D) A conservatory.

(E) An academic high school.

(F) An elementary school.

(G) An institution which provides language training, instruction in the liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.

(ii) *M–1 classification.* The following schools are considered to be vocational or nonacademic institutions and may be approved for attendance by nonimmigrant students under section 101(a)(15)(M)(i) of the Act:

(A) A community college or junior college which provides vocational or technical training and which awards recognized associate degrees.

(B) A vocational high school.

(C) A school which provides vocational or nonacademic training other than language training.

(iii) *Both F–1 and M–1 classification.* A school may be approved for attendance by nonimmigrant students under both sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F)(i) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

(iv) *English language training for a vocational student.* A student whose primary intent is to pursue vocational or technical training who takes English language training at the same school solely for the purpose of being able to understand the vocational or technical course of study is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

* * * * *

(e) *Approval of petition.*—(1) *Eligibility.* To be eligible for approval, the petitioner must establish that—

(i) It is a bona fide school;

(ii) It is an established institution of learning or other recognized place of study;

(iii) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(iv) It is, in fact, engaged in instruction in those courses.

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. The approval of a school for attendance by nonimmigrant students is valid only as long as the school continues to operate in the manner represented on the petition. The approval is also valid only for the type of student, i.e., F–1 or M–1 or both, specified in the approval notice. The approval may be withdrawn in accordance with the provisions of §214.4.

* * * * *

(g) *Record-keeping and reporting requirements.*—(1) *Record-keeping requirements.* An approved school must keep records containing certain specific information and documents relating to each F–1 or M–1 student to whom it has issued a Form I–20A or I–20M while the student is attenidng the school and until the school notifies the Service, in accordance with the requirements of paragraph (g)(2) of this section, that the student is not pursuing a full course of study. The school must keep a record of having complied with the reporting requirements for at least one year. If a student who is out of status is restored to status, the school the student is attending is responsible for maintaining these records following receipt of notification from the Service that the student has been restored to status. The designated school official must make the information and documents required by

this paragraph available to and furnish them to any Service officer upon request. The information and documents which the school must keep on each student are as follows:

(i) The admission number from the student's Form I–20 ID copy.

(ii) Country of citizenship.

(iii) Address and telephone number.

(iv) Status, i.e., full-time or part-time.

(v) Course load.

(vi) Date of commencement of studies.

(vii) Degree program and field of study.

(viii) Expected date of completion.

(ix) Visa type.

(x) Termination date and reason, if known.

(xi) The documents referred to in paragraph (k) of this section.

(xii) Information specified by the Service as necessary to identify the student, such as date and place of birth, and to determine the student's immigration status.

(2) *Reporting requirements.* At intervals specified by the Service but not more frequently than once a term or session, the Service's processing center shall send each school (to the address given on Form I–17 as that to which the list should be sent) a list of all F–1 and M–1 students who, according to Service records, are attending that school. A designated school official at the school must note on the list whether or not each student on the list is pursuing a full course of study and give, in addition to the above information, the names and current addresses of all F–1 or M–1 students, or both, not listed, attending the school and other information specified by the Service as necessary to identify the students and to determine their immigration status. The designated school official must comply with the request, sign the list, state his or her title, and return the list to the Service's processing center within sixty days of the date of the request.

(h) *Review of school approvals.*—(1) *Regular review of school approvals.* The district director shall review from time to time the approval granted to each school in his or her district. The purpose of the review is to determine whether the school meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. The district director may require each school whose approval is reviewed to furnish a currently executed Form I–17 as a petition for continuation of school approval without fee together with the supporting documents specified in paragraph (b) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, the district director shall institute withdrawal proceedings in accordance with § 214.4(b).

(2) *One-time recertification process.*—*(i) General.* Beginning on August 1, 1983, the Service shall notify, in writing, each approved school that it must submit a petition for continuation of its school approval. Within sixty days of receipt of the notification, each school desiring to continue its approval must submit to the Service—

(A) Form I–17 without fee;

(B) The names, titles, and sample signatures of its designated officials as defined in paragraph (l)(1) of this section;

(C) A statement signed by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(b), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming the official's intent to comply with these regulations; and

(D) The supporting documents specified in paragraph (b) of this section.

(ii) *Withdrawal of school approval.* The purpose of the one-time recertification process is to enable the Service to update its records and review the approval of each school desiring to continue its approval to determine whether it meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. If, upon completion of the review, the Service finds that the approval should not be continued, the district director having jurisdiction over the school shall institute withdrawal proceedings in accordance with § 214.4(b). If an approved school fails to submit a petition for continuation of school approval in accordance with this paragraph, its approval will be automatically withdrawn. The district director shall advise the school of an automatic withdrawal of a school's approval pursuant to this paragraph. The effective date of the withdrawal is the date of the notice of that withdrawal. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition for school approval.

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

* * * * *

(k) *Issuance of Certificate of Eligibility.* A designated official of a school that has been approved for attendance by nonimmigrant students must certify Form I–20A or I–20M, but only after page 1 has been completed in full. A Form I–20A–B or I–20M–N issued by an approved school system must state which school within the system the student will attend. The form must be issued in the United States. Only a designated official shall issue a Certificate of Eligibility, Form I–20A–B or I–20M–N, to a prospective student and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

(l) *Designated official.*—(1) *Meaning of term "designated official".* As used in §§ 214.1(b), 214.2(f), 214.2(m), 214.4 and this section, a "designated official" or "designated school official" means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The president, owner, or head of a school or school system must designate a designated official. The designated official may not delegate this designation to any other person. Each school or institution may have up to five designated officials at any one time. In a multi-campus institution, each campus may have up to five designated officials at any one time. In an elementary or

secondary school system, however, the entire school system is limited to five designated officials at any one time.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must report to the Service office having jurisdiction over it any changes in designated officials and furnish the name, title, and sample signature of the new designated official within thirty days of each change.

(3) *Statement of designated official.* A petition for school approval must include a statement by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 214.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section and the regulations relating to withdrawal of school approval namely, § 214.4; and affirming the official's intent to comply with these regulations. An approved school must also submit to the Service office having jurisdiction over it such a statement from any new designated official within thirty days of each change in designated official.

5. Section 214.4 is amended by removing the words "Office of Education" from paragraph (e) and inserting, in their place, the words, "Department of Education". Section 214.4 is amended further by revising paragraph (a) to read as follows:

§ 214.4 Withdrawal of school approval.

(a) *General.*— (1) *Withdrawal on notice.* If a school's approval is withdrawn on notice as provided in paragraphs (b), (c), (d), (e), (f), (g), (h), (i) (j), and (k) of this section, the school is not eligible to file another petition for school approval until at least one year after the effective date of the withdrawal. The approval by the Service, pursuant to sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) or both, of the Act, of a petition by a school or school system for the attendance of nonimmigrant students will be withdrawn on notice if the school or school system is no longer entitled to the approval for any valid and substantive reason including, but not limited to, the following:

(i) Failure to comply with § 214.3(g)(1) without a subpoena.

(ii) Failure to comply with § 214.3(g)(2).

(iii) Failure of a designated official to notify the Service that an F-1 student intends to transfer to another school as required by § 214.2(f)(8)(ii).

(iv) Willful issuance by a designated official of a false statement or certification in connection with a school transfer or an application for employment or practical training.

(v) Any conduct on the part of a designated official which does not comply with the regulations.

(vi) The designation as a designated official of an individual who does not meet the requirements of § 214.3(l)(1).

(vii) Failure to provide the Service with the names, titles, and sample signatures of designated officials as required by § 214.3(l)(2).

(viii) Failure to submit statements of designated officials as required by § 214.3(l)(3).

(ix) Issuance of Forms I-20A or I-20M to students without receipt of proof that the students have met scholastic, language or financial requirements.

(x) Issuance of Forms I-20A or I-20M to aliens who will not be enrolled in or carry full courses of study as defined in §§214.2(f)(6) or 24.2(m)(9).

(xi) Failure to operate as a bona fide institution of learning.

(xii) Failure to employ qualified professional personnel.

(xiii) Failure to limit its advertising in the manner prescribed in § 214.3(j).

(xiv) Failure to maintain proper facilities for instruction.

(xv) Failure to maintain accreditation or licensing necessary to qualify graduates as represented in the petition.

(xvi) Failure to maintain the physical plant, curriculum, and teaching staff in the manner represented in the petition for school approval.

(xvii) Failure to comply with the procedures for issuance of Forms 1-20A or 1-20M as set forth in § 214.3(k).

(2) *Automatic withdrawal.* If an approved school terminates its operations, approval will be automatically withdrawn as of the date of termination of the operations. If an approved school changes ownership, approval will be automatically withdrawn sixty days after the change of ownership unless the school files a new petition for school approval within sixty days of that change of ownership. The district director must review the petition to determine whether the school still meets the eligibility requirements of § 214.3(e). If, upon completion of the review, the district director finds that the approval should not be continued, the district director shall institute withdrawal proceedings in accordance with paragraph (b) of this section. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition for school approval.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

6. Section 248.1 is amended by revising paragraph (b) and by adding paragraphs (c) and (d). Paragraphs (b), (c), and (d) read as follows:

§ 248.1 Eligibility.

* * * * *

(b) *Maintenance of status.* In determining whether an applicant has continued to maintain nonimmigrant status, the district director shall consider whether the alien has remained in the United States for a longer period than that authorized by the Service. The district director shall consider any conduct by the applicant relating to the maintenance of the status from which the applicant is seeking a change. An applicant may not be considered as having maintained nonimmigrant status within the meaning of this section if the applicant failed to submit an application for change of nonimmigrant classification before the applicant's authorized temporary stay in the United States expired, unless the district director determines that—

(1) The failure to file a timely application is excusable;

(2) The alien has not otherwise violated the nonimmigrant status;

(3) The alien is a bona fide nonimmigrant; and

(4) The alien is not the subject of deportation proceedings under Part 242 of this chapter.

(c) *Change of nonimmigrant classification to that of a nonimmigrant student.* A nonimmigrant applying for a change to classification as a student under sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act is not considered ineligible for such a change solely because the applicant may have started attendance at school before the application was submitted. The district director shall deny an application for a change to classification as a student under section 101(a)(15)(M)(i) of the Act if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change of nonimmigrant classification to that of an alien temporary worker under section 101(a)(15)(H) of the Act. Furthermore, an alien may not change from classification as a student under section 101(a)(15)(M)(i) of the Act to that of a student under section 101(a)(15)(F)(i) of the Act.

(d) *Application for change of nonimmigrant classification from that of a student under section 101(a)(15)(M)(i) to that described in section 101(a)(15)(H).* A district director shall deny an application for change of nonimmigrant classification from that of an M–1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M–1 student enables the student to meet the qualifications for temporary worker classification under section 101(a)(15)(H) of the Act.

7. Section 248.3 is amended by revising paragraph (b), by adding new paragraphs (c) and (d), and by redesignating existing paragraphs (c) and (d) as (e) and (f), respectively. Paragraphs (b), (c), and (d) read as follows:

§ 248.3 Application.

* * * * *

(b) *Application and fee not required.* For a change of nonimmigrant classification to a classification under section 101(a)(15)(A) or 101(a)(15)(G) of the Act, the Department of State must send a letter to the district director. For all other changes of nonimmigrant classification as described below, the applicant must submit a letter to the district director requesting the change of nonimmigrant classification. Neither an application nor a fee is required for the following changes of nonimmigrant classification:

(1) A change to classification under section 101(a)(15) (A) or (G) of the Act.

(2) A change to classification under sections 101(a)(15) (A) or (G) of the Act for an immediate family member, as defined in 22 C.F.R. 41.1, of a principal alien whose status has been changed to such a classification.

(3) A change to the appropriate classification for the nonimmigrant spouse or child of an alien whose status has been changed to a classification under sections 101(a)(15) (E), (F), (H), (I), (J), (L), or (M) of the Act.

(4) A change of classification from that of a visitor for pleasure under section 101(a)(15)(B) of the Act to that of a visitor for business under the same section.

(5) A change of classification from that of a student under section 101(a)(15)(F)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(F)(ii) of the Act or vice versa.

(6) A change from any classification within section 101(a)(15)(H) of the Act to any other classification within section 101(a)(15)(H) of the Act provided that the requisite Form I–129B visa petition has been filed and approved.

(7) A change from classification as a participant under section 101(a)(15)(J) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(8) A change from classification as an intra-company transferee under section 101(a)(15)(L) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(9) A change of classification from that of a student under section 101(a)(15)(M)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(M)(ii) of the Act or vice versa.

(c) *Fee not required.* No fee is required for a request for change to exchange alien classification under section 101(a)(15)(J) of the Act made by an agency of the United States Government. In such a case, the agency may submit Form IAP–66, Certificate of Eligibility for Exchange-Visitor (J–1) Status, together with its request in lieu of Form I–506, Application for Change of Nonimmigrant Status.

(d) *Change of classification not required.* The following do not need to request a change of classification:

(1) An alien classified as a visitor for business under section 101(a)(15)(B) of the Act who intends to remain in the United States temporarily as a visitor for pleasure during the period of authorized admission; or

(2) An alien classified under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act as a member of the immediate family of a principal alien classified under the same section, or an alien classified under section 101(a)(15) (E), (F), (H), (I), (J), (L), or (M) of the Act as the spouse or child who accompanied or followed to join a principal alien who is classified under the same section, to attend school in the United States, as long as the immediate family member, spouse or child continues to be qualified for and maintains the status under which the family member, spouse or child is classified.

* * * * *

(Sec. 101(a)(15)(F), 101(a)(15)(M), 214 and 248, Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(F), 1101(a)(15)(M), 1184 and 1258)

Dated: March 21, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-8728 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238

Contracts With Transportation Lines: Addition of San Juan Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds San Juan Airlines, Inc. to the listing of carriers which have entered into agreements with the Service regarding transportation lines bringing aliens to the United States from or through foreign contiguous territory or adjacent islands and lines bringing aliens destined to the United States into such territory or islands. No transportation line is permitted to land any alien in the United States unless it has entered into such a contract.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.2 is published pursuant to 5 U.S.C. 552. The Service entered into written contracts with San Juan Airlines, Inc. on March 9, 1983 under the provisions of section 238(a) and (b) of the Immigration and Nationality Act, 8 U.S.C. 1228(a) and (b), to provide for the entry and inspection of aliens coming to the United States from or through Canada. The agreements require San Juan Airlines, Inc., to submit to and comply with all the requirements of the Immigration and Nationality Act which would apply if it was bringing such aliens directly to ports of the United States. No transportation line is allowed to land any alien passengers in the United States unless it has entered into the required agreements.

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

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

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

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

In § 238.2, paragraph (b) (1) is amended by adding in alphabetical sequence:

§ 238.2 Transportation lines bringing aliens to the United States from or through foreign contiguous territory or adjacent islands and lines bringing aliens destined to the United States into such territory or islands.

* * * * *

(b) * * *

(1) * * *

San Juan Airlines, Inc.

* * * * *

(Secs. 103 and 238 Immigration and Nationality Act; 8 U.S.C. 1103 and 1228)

Dated: March 29, 1983.

Andrew J. Carmichael Jr.,

Associate Commissioner for Examinations Immigration and Naturalization Service.

[FR Doc. 83-8700 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 332b

Instruction and Training in Citizenship Responsibilities; Textbooks, Schools, Organizations; Candidates for Naturalization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule removes the requirement that the names and addresses of potential naturalization applicants are to be provided to public school systems for the purpose of interesting applicants in attending public school classes in preparation for citizenship. A steady decline in attendance by applicants and possible conflict with the Privacy Act regarding disclosure of an applicant's address require discontinuance of the practice.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: M. Christopher Grant, General Attorney, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633-3320.

SUPPLEMENTARY INFORMATION: Under 8 CFR part 332b the Immigration and Naturalization Service assisted public school systems with preparing naturalization applicants for their duties and responsibilities as future American citizens. The Service prepares and distributes, without charge to public schools engaged in citizenship programs, federal textbooks on citizenship. Whenever possible, Service officers visit public school citizenship classes and cooperate with voluntary agencies involved in assisting naturalization applicants.

In addition, the Service in the past had referred to public school systems the names and addresses of new lawful permanent resident aliens for the purposes of having the school interest the new immigrants in attending public school classes designed to teach American history and government, as well as English where necessary. Knowledge of history and government, as well as the ability to speak, read, and write simple English, are prerequisites to the naturalization process.

Service review, however, has shown a steady decline in attendance of prospective citizens at public school citizenship classes. Furthermore, while the Attorney General is authorized by statute to promote training in citizenship responsibility by referring the names of prospective applicants to public school systems, there is no statutory authorization to provide the applicants' addresses. To the contrary, aliens admitted for lawful permanent residence are protected by the Privacy Act of 1974 (5 U.S.C. 532(a)) from unwarranted invasions of their right to privacy.

While the Attorney General is authorized to provide names of naturalization applicants, he is not required to do so. Given the declining public benefit derived from these referrals, the Service has elected, in light of tight limitations on its resources and potential Privacy Act problems (stemming from inadequate safeguards from possible misuse of the information provided), to discontinue the practice of referring naturalization applicants' names and addresses to public school systems. Brochures are provided by the Service to arriving aliens which fully explain the requirements for citizenship and the availability of citizenship classes. The aliens are encouraged to contact the public school systems.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule is limited to agency practice and procedure.

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

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 332b

Citizenship and naturalization, Educational study programs.

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

PART 332b—INSTRUCTIONS AND TRAINING IN CITIZENSHIP RESPONSIBILITIES: TEXTBOOKS, SCHOOLS, ORGANIZATIONS

§ 332b.2 [Removed]

Part 332b is amended by removing § 332b.2.

(Secs. 103, 332, Immigration and Nationality Act, 8 U.S.C. 1103, 1443)

Dated: February 25, 1983.

Doris M. Meissner,

Executive Associate Commissioner, Immigration & Naturalization Service.

[FR Doc. 83-8725 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs: Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule effective date; correction.

SUMMARY: On March 10, 1983, the Farm Credit Administration published final regulations on funding and fiscal affairs to allow the Farm Credit System ("System") banks to issue consolidated and consolidated Systemwide bonds in definitive rather than book-entry form when approved by the appropriate authorities (48 FR 10037). This document corrects the effective date of the final regulations.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578 (202-755-2181).

Donald E. Wilkinson,

Governor.

The effective date of these regulations is subject to a statutory requirement that no final regulation of the Farm Credit Administration (except in cases of emergency) shall become effective prior to the expiration of 30 calendar days after publication in the **Federal Register** during which either or both Houses of

Congress are in session. At the time these final regulations were published, the 10 days on which both Houses will be adjourned for the Easter Recess was not excluded from the computation of the 30 days. Accordingly, the Farm Credit Administration is correcting the effective date for 12 CFR 615.5450, 615.5452, 615.5453, and 615.5454 as follows:

Effective date: April 19, 1983.

[FR Doc. 83-8781 Filed 4-4-83; 8:45 am]

BILLING CODE 6705-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-51]

Staff Accounting Bulletin No. 51; Accounting for Sales of Stock by Subsidiary Company

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin expresses the staff's views regarding accounting in consolidation for issuance of a subsidiary's stock that cause changes in the parent's ownership percentage in the subsidiary.

DATE: March 29, 1983.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken, Office of the Chief Accountant (202/272-2130); or Howard P. Hodges, Jr., Division of Corporation Finance (202/272-2553), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,

Secretary.

March 29, 1983.

Staff Accounting Bulletin No. 51

The staff herein adds Section H to Topic 5 of the Staff Accounting Bulletin Series. This section discusses the staff's position on accounting in consolidation for issuances of a subsidiary's stock that cause changes in the parent's ownership percentage in the subsidiary.

Topic 5: Miscellaneous Accounting

H. Accounting for Sales of Stock by a Subsidiary

Facts: The registrant owns 95% of its subsidiary's stock. The subsidiary sells its unissued shares in a public offering, which decreases the registrant's ownership of the subsidiary from 95% to 90%. The offering price per share exceeds the registrant's carrying amount per share of subsidiary stock.

Question: When an offering takes the form of a subsidiary's direct sale of its unissued shares, will the staff permit the amount in excess of the parent's carrying value to be reflected as a gain in the consolidated income statement of the parent?

Interpretive Response: Yes, in some circumstances. Although the staff has previously insisted that such transactions be accounted for as capital transactions in the consolidated financial statements, it has recently reconsidered its views on this matter with respect to certain of these transactions where the sale of such shares by a subsidiary is not a part of a broader corporate reorganization contemplated or planned by the registrant. In situations where no other such capital transactions are contemplated, the staff has determined that it will accept accounting treatment for such transactions that is in accordance with the Advisory Conclusions in paragraph 30 of the June 3, 1980 Issues Paper, "Accounting in Consolidation for Issuances of a Subsidiary's Stock," prepared by the Accounting Standards Executive Committee of the AICPA. The staff believes that this issues paper should provide appropriate interim guidance on this matter until the FASB addresses this issue as a part of its project on Accounting for the Reporting Entity, including Consolidations, the Equity Method, and Related Matters.

Gains (or losses) arising from issuances by a subsidiary of its own stock, if recorded, in income by the parent, shall be presented as a separate line item in the consolidated income statement without regard to materiality and clearly be designated as non-operating income. An appropriate description of the transaction should be included in the notes to the financial statements.

[FR Doc. 83-8876 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 and 143

[T.D. 83-82]

Informal Entry for United States Goods Returned

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to establish informal entry procedures, pursuant to section 202 of Pub. L. 96-609, for certain products of the United States which have not been advanced in value or improved in condition while abroad. The purpose of the amendments is to allow importers of these products to use the informal entry procedures which are less costly, complex, and time consuming than the formal entry procedures.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Herbert Geller, Duty Assessment Division (202-566-5307); Legal Aspects: Darrell D. Kast, Entry Procedures and Penalties Division (202-566-5874), U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

All merchandise imported into the customs territory of the United States must be "entered." The entry of that merchandise means that the consignee (or importer, or agent of either) has filed with the appropriate Customs officer the documentation required to secure the release of the imported merchandise from Customs custody. Generally, shipments of merchandise valued at $250 or less are permitted to be entered under an "informal entry." An informal entry is one in which documentation requirements are held to a minimum (usually a single brief Customs form), and release of the merchandise is immediate upon payment of any estimated duties and taxes. Section 143.21, Customs Regulations (19 CFR 143.21), lists the types of merchandise which may be entered under an informal entry, and § 143.23, Customs Regulations (19 CFR 143.23), sets forth the documentation required for such entries.

Section 202 of Pub. L. 96-609 amended section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)), by providing for a new subsection (2) which permits informal entry of certain U.S. products and reads as follows:

(2) Products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

(A) For the purposes of repair or alteration prior to reexportation, or

(B) After having been either rejected or returned by the foreign purchaser to the United States for credit.

The provisions of section 202 are intended to permit the Secretary of the Treasury to prescribe informal entry procedures for the entry of products of the United States valued at $10,000 or less returned to the United States for the specified purposes. It is inevitable that some goods exported by U.S. companies will be returned to the United States for the specified purposes. The informal procedures which would be available to enter such returned goods are less costly, complex, and time consuming than the formal entry procedures, and would aid businesses, particularly small and medium sized businesses, in engaging in the exportation of merchandise. Whereas the formal entry procedure ordinarily requires the services of a customhouse broker, the posting of bonds, a formal appraisement of the merchandise, and the like, the informal entry procedure generally requires no bond, no formal appraisement, and permits the entry documents to be filled out by the importer. Under this procedure, the Customs officer examines, appraises, classifies, and releases the merchandise to the importer upon payment of duties and taxes.

In light of Pub. L. 96–609, on March 18, 1982, Customs published a notice in the **Federal Register** (47 FR 11706), proposing to add a new paragraph (j) to § 143.21 to permit informal entry for those products of the United States described in section 202 of Pub. L. 96–609. In addition, a new paragraph (h) would be added to § 143.23 to specify that Customs Form 3311 will serve as the informal entry document for products of the United States returned for purposes of repair or alteration prior to reexportation, and that Customs Forms 3311 and 7501 are required for United States products returned either rejected or for credit. Lastly, a new paragraph (j) would be added to § 10.1, Customs Regulations (19 CFR 10.1), setting forth the informal entry procedures for qualifying United States products returned (referencing the requirements stated in new § 143.23(h)).

Pursuant to the notice, interested parties were given until May 17, 1982, to submit comments on the proposal. After consideration of the three comments received, the amendments to Parts 10 and 143 are being adopted as proposed.

Discussion of Comments

While all three of the commenters supported the proposal, one offered several additional recommendations.

The commenter recommends that Customs should eliminate the distinction between Customs Forms 7501 and 3311 for entry of American goods returned within the scope of section 202 of Pub. L. 69–609, and generally, to authorize use of Customs Form 7501 for any type of informal entry. Due to the requirements of the Bureau of Census to publish statistics concerning imports, Customs notes that Customs Forms 7501 must remain a requirement. Customs Form 3311 is required for ascertainment of the duty-free status of the merchandise. Also, § 143.23(f) provides for the use of Customs Form 7501 for merchandise released under the immediate delivery procedure or the entry documentation required by § 142.3(a). The commenter also suggests that Customs increase the value limitation for informal entries from the present $250 to $1000. Customs notes that the value limitation of $250 is statutory, any increase in the amount would require Congressional action, and the suggestion is beyond the scope of these amendments.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

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

Drafting Information

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

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports, Exports.

19 CFR Part 143

Customs duties and inspection, Imports.

Amendments to the Customs Regulations

Parts 10 and 143, Customs Regulations (19 CFR Parts 10 and 143), are amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: March 17, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.1, Customs Regulations (19 CFR 10.1), is amended by adding a new paragraph (j) to read as follows:

§ 10.1 Domestic products: requirements on entry.

* * * * *

(j) In the case of products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

(1) For the purposes of repair or alteration, prior to reexportation, or

(2) After having been either rejected or returned by the foreign purchaser to the United States for credit, free entry thereof may be made under item 800.00, Tariff Schedules of the United States, on Customs Form 3311, (a Customs Form 7501 must be submitted as well for articles, described in paragraph (b) of this and § 143.23(h) of this chapter) executed by the owner, importer, consignee, or agent and filed in duplicate, without regard to the requirement of a certificate of exportation or evidence of similar purport, unless the Customs officer has reason to believe that Customs drawback or exemption from internal revenue tax, or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The person making entry shall show on Customs Form 3311 the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the value of the articles. The person making entry shall also produce evidence of his right to make entry (except as provided in § 141.11(b) of this chapter). If the Customs officer is not entirely certain that the articles to be entered under this paragraph by a nominal consignee are products of the United States, the actual owner or ultimate consignee thereof may be required to execute a Customs Form 3311.

(R.S. 251, as amended (19 U.S.C. 66), section 481, 46 Stat. 789 (19 U.S.C. 1481), section 484, 46 Stat. 722, as amended (19

U.S.C. 1484), section 498, 46 Stat. 728, as amended (19 U.S.C. 1498), section 624, 46 Stat. 759 (19 U.S.C. 1624))

PART 143—CONSUMPTION, APPRAISEMENT AND INFORMAL ENTRIES

1. Section 143.21, Customs Regulations (19 CFR 143.21) is amended by adding a new paragraph (j) to read as follows:

§ 143.21 Merchandise eligible for informal entry.

* * * * *

(j) Products of the United States, when the aggregate value of the shipment does not exceed $10,000 and the products are imported—

(1) For the purposes of repair or alteration prior to reexportation, or

(2) After having been either rejected or returned by the foreign purchaser to the United States for credit.

2. Section 143.23, Customs Regulations (19 CFR 143.23), is amended by adding a new paragraph (h) to read as follows:

§ 143.23 Form of entry.

* * * * *

(h) Products of the United States being returned for which informal entry is permitted by § 143.21(j) may be cleared as follows:

(1) For products of the United States returned for the purposes of repair or alteration prior to reexportation. Customs Form 3311 will serve as informal entry.

(2) For products of the United States after having been either rejected or returned by the foreign purchaser for credit, Customs Form 7501, annotated "informal entry" in the upper right hand corner, and Customs Form 3311 will serve as informal entry.

(R.S. 251, as amended (19 U.S.C. 66), section 481, 46 Stat. 789 (19 U.S.C. 1481), section 484, 46 Stat. 722, as amended (19 U.S.C. 1484), section 498, 46 Stat. 728, as amended (19 U.S.C. 1498), section 624, 46 Stat. 759 (19 U.S.C. 1624))

[FR Doc. 83-8778 Filed 4-4-83; 8:45 am]

BILLING CODE 4820-02-M

PANAMA CANAL COMMISSION

35 CFR Part 10

Privacy Act of 1974; Access to Information Concerning Individuals; Exemption From Access of System of Records Under the Privacy Act

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: On February 14, 1983, the Panama Canal Commission published in the **Federal Register** (48 FR 6563) a proposed rule to exempt a system of records called Administrative Reports, PCC/GSCX–1, from certain provisions of the Privacy Act of 1974. No comments were received in connection with this proposed rule; therefore, the rule is now adopted without change. The rule exempts information in the system from disclosure to the subjects of the records. The system consists of information maintained by the Support Services Branch of the Panama Canal Commission, and the exemption is needed because the function of the Branch includes receiving and filing copies of investigatory reports from Government of Panama law enforcement authorities on Commission employees, their dependents, and other eligible persons who have been arrested by or have otherwise become involved with Government of Panama authorities. The office acquires such copies and generates additional reports in the process of providing assistance to such individuals in compliance with certain requirements of the Panama Canal Treaty of 1977. The system also contains copies of investigatory reports originated by U.S. military authorities on individuals who have been involved in shoplifting or other misconduct which have been referred to the Support Services Branch for review, clarification, counseling, and administrative action. In addition, the system contains copies of reports of disposition of cases involving abuse of purchase and importation privileges for reference purposes. Divulging the information in the system could impede efforts to assist Panama Canal Commission employees or their dependents when such assistance is required.

Since the purpose of this rule is to exempt a narrow class of records concerning individuals from the access and contest provisions of the Privacy Act, no small entities would be affected by its implementation. Accordingly, the agency has determined that the rule will not have a significant economic impact on a substantial number of small entities. Therefore, sections 603 and 604 of 5 U.S.C. do not apply to the regulation in this document, and the head of the agency so certifies pursuant to 5 U.S.C. 605(b). Further, for the same reasons, this rule is not considered to be a major rule as defined in section 1(b) of Executive Order 12291 of February 17, 1981.

EFFECTIVE DATE: April 5, 1983.

ADDRESS: Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004; or Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004 (telephone 202–724–0104).

List of Subjects in 35 CFR Part 10

Privacy.

PART 10 [AMENDED]

Under the Privacy Act of 1974, 5 U.S.C. 552a, The Panama Canal Commission amends Part 10 of 35 CFR by adding a new paragraph (a)(2)(xxix) to 35 CFR 10.22 to read as follows:

§ 10.22 Specific exemptions.

(a) * * *

(2) * * *

(xxix) Administrative Reports, PCC/GSCX–1.

Dated: March 18, 1983.

Fernando Manfredo, Jr.,

Acting Administrator.

[FR Doc. 83-8799 Filed 4-4-83; 8:45 am]

BILLING CODE 3640-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6366

[W-73125]

Wyoming; Partial Revocation of Executive Order of December 13, 1898

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Executive Order of December 13, 1898, which withdrew public lands for use as a military reservation. This order constitutes a record clearing action only since the affected 560 acres of public lands are currently under Recreation and Public Purposes lease. Consequently, the lands will remain closed to surface entry, except for disposition under the Recreation and Public Purposes Act, and to mining location. They have been and remain open to mineral leasing.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–772–2540.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and

Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of December 13, 1898, which withdrew public lands for a military reservation is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 56 N., R. 85 W.,
Sec. 14, N½, N½S½, S½SW¼.

The area described contains 560 acres in Sheridan County, Wyoming.

2. The above described public lands are currently under a Recreation and Public Purposes Lease W-66703, issued to Sheridan County, under the Act of June 14, 1926, as amended (43 U.S.C. 869 et. seg.), and are not subject to other appropriations or dispositions under the public land laws, including the mining laws. They have been and will remain open to applications and offers under the mineral leasing laws.

3. The Bureau of Land Management will assume jurisdiction of the lands. All easements and rights-of-way previously granted or established by the Department of the Army, Omaha District, Corps of Engineers, on the subject lands shall continue in full force and effect.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 28, 1983.

[FR Doc. 83-8750 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-715; RM-4192]

FM Broadcast Station in Flagstaff and Winslow, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a third Class C channel to Flagstaff, Arizona and substitutes an equivalent Class C channel for an unused allocation at Winslow, Arizona to conform with the Commission's minimum mileage separation requirements.

DATE: Effective: May 23, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Flagstaff and Winslow, Arizona); BC Docket No. 82-715, RM-4192.

Adopted: March 14, 1983.

Released: March 23, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 47891, published October 28, 1982, issued in response to a petition filed by Communications, Ltd. ("petitioner"), proposing the assignment of Class C Channel 248 to Flagstaff, Arizona, as that community's third FM assignment. To comply with the spacing requirements, Channel 286 was proposed as a substitute for unused Channel 247 at Winslow, Arizona. Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. In view of the fact that the proposed assignment could provide a third Class C station at Flagstaff, Arizona, the Commission believes that the public interest would be served by assigning Channel 248 to that community, and substituting Class C Channel 286 for unused Channel 247 at Winslow, as outlined in petitioner's proposal. The channel assignment and substitution can be made consistent with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 23, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Flagstaff, Arizona	225, 230, and 248.
Winslow, Arizona	236 and 286.

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

5. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1032, 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-8847 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-705; RM-4186]

FM Broadcast Station in Rock Harbor, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first FM channel to Rock Harbor, Florida, in response to a petition filed by David and Elizabeth Freeman.

DATE: Effective: May 23, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rock Harbor, Florida); BC Docket No. 82-705, RM-4186.

Adopted: March 14, 1983.

Released: March 23, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 FR 46118, published October 15, 1982, proposing the assignment of Channel 272A to Rock Harbor, Florida, as its first FM assignment. The *Notice* was issued in response to a petition filed by David and Elizabeth Freeman ("petitioners"). Supporting comments were filed by the petitioners reaffirming that they will apply for the channel, if assigned.

2. In view of the fact that the proposed assignment could provide for a first FM station at Rock Harbor, the Commission believes that the public interest would be served by assigning Channel 272A to that community. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Accordingly, pursuant to the authority contained in sections 4(i),

5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 23, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Rock Harbor, Florida	272A

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-8846 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-569; RM-4160]

FM Broadcast Stations in Reliance, South Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 233 to Reliance, South Dakota, in response to a petition filed by Midcontinent Broadcasting Company. The assignment could provide a first FM service to Reliance.

DATE: Effective: May 23, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Reliance, South Dakota); BC Docket No. 82–569, RM–4160.

Adopted: March 15, 1983.

Released: March 23, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 38933, published September 3, 1982, proposing to assign Class C Channel 233 to Reliance, South Dakota, as a first FM assignment. The *Notice* was issued in response to a petition filed by Midcontinent Broadcasting Company ("Midcontinent")[1] ("petitioner"). Supporting comments were filed by the petitioner, restating its intent to apply for Channel 233, if assigned. Joint comments, in opposition, were filed by James River Broadcasting Company ("James River"),[2] and Robert E. Ingstad ("Ingstad"),[3] to which petitioner responded.

2. James River and Ingstad urged us not to rely on the petitioner's statement that it will apply for the channel, if assigned. In this regard, they state that the petitioner is the licensee of numerous AM, FM, TV and cable systems throughout South Dakota. More importantly, petitioner is the licensee of Station KPLO (TV) at Reliance. According to James River and Ingstad, the Grade A contour of Station KPLO (TV) encompasses the entire community of Reliance, and in accordance with § 73.240(a)(1) of the Commission's Rules, petitioner is prohibited from becoming an FM licensee in that community. Therefore, they argue that Midcontinent is ineligible as a prospective licensee for Channel 233 and cannot be the proper party to petition the Commission for an assignment to Reliance. Accordingly, they request the Commission to dismiss the rule making without further action.

3. In response, the petitioner argues that the opposition's arguments are based on a misreading of both Commission precedent and practice. Petitioner notes that its station is primarily a satellite operation and that Note 9 of § 73.240(a)(1) provides an exception to the multiple ownership rule for such stations (on a case-by-case basis). Additionally, petitioner notes that the opposition omitted any reference to Note 9, or to the fact that Station KPLO (TV) operates primarily as a satellite station. Petitioner concludes that the Commission has held on numerous occasions that questions relating to the qualifications of the prospective licensee should not be considered at the rule making stage, but in the context of the application process, citing *Caldwell, Ohio*, 46 R.R. 2d 1453 (1980) and *Billings, Montana*, 51 R.R. 2d 259 (1982). It adds that contrary to the opposition's interpretation of § 1.401(a), there is no F.C.C. policy equating a proper petitioning party (interested party) with an eligible licensee. Petitioner urges the Commission to adopt its proposal, since the need for the requested channel has been demonstrated.

4. After careful consideration of the proposal and comments presented in this proceeding, we have determined that Reliance will benefit from the requested assignment, since it would provide a first FM service to that community. As for the possible multiple ownership problem, we generally provide an opportunity at the application stage for the petitioning party to demonstrate that it meets the standards for the exception in Note 9 to § 73.240(a)(1). See also *Tullahoma, Tennessee*, 46 F.R. 43170 (1981). We believe it would be appropriate to do so here.

5. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 23, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Reliance, South Dakota	233

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-8845 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Midcontinent is the licensee of stations: KELO–AM, FM, and TV, Sioux Falls, South Dakota; KDLO–FM, Watertown, South Dakota; Satellite Stations KDLO–TV, Florence and KPLO–TV, Reliance, South Dakota. Midcontinent through a wholly owned subsidiary, is also the licensee of Stations WTSO (AM) and WZEE (FM), Madison, Wisconsin.

[2] James River Broadcasting Company is the licensee of Station KGFX (AM), Pierre, South Dakota.

[3] Robert E. Ingstad is the licensee of Station KGFX (FM), Pierre, South Dakota.

47 CFR Part 73

[BC Docket No. 82-714; RM-4193]

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

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a seventh FM channel to Lubbock, Texas, in response to a petition filed by Jerrico Broadcasting.

DATE: Effective: May 23, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lubbock, Texas); BC Docket No. 82-714, RM-4193.

Report and Order

Adopted: March 14, 1983.

Released: March 23, 1983.

By the Chief, Policy and Rules Divisions.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 F.R. 47894, published October 28, 1982, proposing the assignment of Channel 292A to Lubbock, Texas, as its seventh FM assignment. The *Notice* was issued in response to a petition filed by Jerrico Broadcasting ("petitioner"). Supporting comments were filed by the petitioner reaffirming that it will apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of a seventh FM channel to Lubbock. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is ordered, That effective May 23, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Lubbock, Texas	229, 233, 242, 258, 266, 273, and 292A.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-8849 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 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.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Proposed Revision to U.S. Standards for Mixed Grain

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed and is proposing changes to the U.S. Standards for Mixed Grain. In the interest of clarity, to promote a better understanding of the standards, and to facilitate the marketing of mixed grain, FGIS proposes to reformat the standards; redefine mixed grain; eliminate the mixed feed oats sections and the special grade *Tough;* tighten the limits for the special grade *Ergoty;* simplify the basis for determining the percentage of each type of grain in the mixture, and damaged kernels; revise section 7 CFR 810.901 to apply only to the corn, rye, soybeans, and flaxseed standards; establish rounding procedures for percentages and make other general nonsubstantive changes to update the standards to accommodate current marketing practices.

DATE: Comments must be submitted on or before June 6, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636 South Building, 14th and Independence Avenue, SW., Washington, DC 20250; telephone (202) 382-0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above), telephone (202) 382-0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because most users of mixed grain inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Review of Standards

The review of the standards included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a review of changes in technology and economic conditions in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent.

A notice requesting public comment on the U.S. Standards for Corn, Soybeans, and Mixed Grain was published in the May 8, 1980 **Federal Register** (45 FR 30446). Of the thirteen comments received one commenter, while making no specific recommendations, suggested that clarification of the definition for mixed grain would enhance the uniform application of the standard. Twelve commenters made no specific reference to the mixed grain standards.

A review of all related information, and the Agency's review and subsequent research of sieving procedures, indicates that certain revisions in the standards would increase the clarity and effectiveness of the standards and reflect current marketing practices. As a result of this review FGIS is proposing changes to the U.S. Standards for Mixed Grain as discussed below.

Comments including data views and arguments are solicited from interested persons. Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)), upon request, such information may be presented orally in an informal manner. It should be noted that pursuant to section 4(b) of the Act no standards established or amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgement of the administrator the public health, interest or safety requires that they become effective sooner.

1. To enhance clarity and uniformity between and among various grade standards, FGIS proposes to reformat the U.S. Standards for Mixed Grain by dividing the standards into sections such as currently exist in the U.S. Standards for Wheat. Specifically, in addition to the changes discussed below, the current § 810.451, *Terms defined* would be divided into § 810.451, *Definition of Mixed Grain,* and a new § 810.452, *Definition of other terms;* the current § 810.452, *Principles governing application of standards* would be divided into a new § 810.453, *Basis of determination,* a new § 810.454, *Temporary modifications in equipment and procedures,* and a new § 810.455, *Percentages;* and the current § 810.453, *Grades, grade requirements, and grade designations* would be divided into new sections, § 810.456, *Grades, grade requirements,* § 810.457, *Grade designation,* § 810.458, *Special grades and special grade requirements,* and § 810.459, *Special grade designations.* Incidental to this reformating, the definitions for moisture and for test weight per bushel would be moved from the current § 810.452 to the new § 810.452, *Definition of other terms.*

2. Because mixed feed oats are not marketed on the basis of official grades, and because inspections of them have decreased drastically in recent years, FGIS is proposing to delete the mixed food oats portion of the standards. In the standards for mixed grain, wild oats and mixtures of wild oats with cultivated oats are only applicable to the definition and grading of mixed feed oats; therefore all references to and definitions of them would also be deleted, including the references to wild oats in the basic definition of mixed grain. Appropriate changes as a result of the deletion of the two mixed feed oats grades, are made to all affected sections in the standards for mixed grain.

3. The special grade *Tough* is not descriptive of grain quality; and the placement of moisture content on certificates, which is currently used to determine this condition, makes this special grade designation unnecessary. Accordingly, FGIS proposes to delete the special grade *Tough*. (Similar proposals are planned for the standards for barley, oats, and rye, which are the only grain standards that still retain this special grade.)

4. FGIS is proposing to tighten the limit for the special grade *Ergoty* to 0.10 percent from 0.30 percent. Feeding trials, conducted by the North Dakota Agricultural Experiment Station, concluded that livestock regularly consuming feed containing as little as 0.06 percent of ergot exhibit significant signs of toxicity, and all standards using the special grade *Ergoty*, except wheat and rye, have previously been tightened to 0.10 percent for that reason. (Similar proposals are planned for the wheat and rye standards.)

5. In addition to deleting references to wild oats in the definition of mixed grain, FGIS proposes to further amend the definition to incorporate a minimum requirement of 50 percent of whole kernels of grain for which standards have been established, and/or whole and broken soybeans which will not pass through a 5/64 inch triangular-hole sieve, and/or whole flaxseed passing through the sieve. The definitions of other standard grains are based on a minimum percentage of whole kernels of grain for those grains which commonly have broken kernels, and a minimum of whole and broken kernels for those grains in which broken kernels are not common. Therefore, a minimum percentage of kernels is generally used to define each grain, except in the case of soybeans which are defined on the basis of a minimum percentage of whole and broken kernels remaining on top of an 5/64 inch round-hole sieve which gives similar results to the 5/64 inch triangular-hole sieve proposed for the mixed grain standards. Thus, this proposal would make the mixed grain standards consistent with other grain standards.

6. FGIS also proposes to change the basis for determining the percentage of each type of grain present in a mixture and the amount of damaged kernels, to the basis of the grain after sieving. Sieving tests conducted by FGIS showed that the use of a 5/64 inch triangular-hole sieve to separate fine material, significantly shortened the time required for the hand-picking process, thus facilitating the manual separation of whole and broken kernels of each kind of grain and damaged kernels. Because the bulk of the fine material passing through the sieve (fines) is or indeterminate value and origin, this material is proposed to be categorized with foreign material to create a new grading factor, *foreign material and fines*.

7. The current definitions in the mixed grain standards for moisture and test weight per bushel contain obsolete or no longer used references. This proposal includes amended definitions.

8. The equipment and procedures referred to in the mixed grain standards are applicable to grain produced and harvested under normal environmental conditions. As is the case with standards for wheat, FGIS proposes to provide that, when adverse growing or harvesting conditions make the use of routine procedures impractical, minor temporary modifications in the equipment or procedures may be required to obtain results expected under normal conditions. Accordingly, the addition of a new section 810.454 on temporary modifications in equipment and procedures is proposed. Adjustments in interpretations (i.e., identity, quality, and condition) however, shall not be made.

9. In the interest of promoting the clarity of and uniformity between and among the various grain standards, it is proposed that a new section 810.455, *Percentages* be added to reflect rounding and recording procedures (tenths of a percent) for all percentage determinations made under the mixed grain standards. The present standards state that percentages of each kind of grain shall be stated in terms of whole percents.

10. FGIS proposes to add the specific limit of two crotalaria seeds in a 1000 gram sample to the new section 810.456(b) to more clearly define the U.S. Sample grade Mixed Grain. This limit is currently imposed by section 810.901 which renders grain exceeding this limit as distinctly low quality. 7 CFR 810.901, though still applicable to other grains, would no longer be applicable to mixed grain.

11. Because the special grades *Smutty* and *Garlicky* are applicable to samples of triticale under the U.S. Standards for Triticale, FGIS proposes to provide for the application, when appropriate, of these special grades in mixtures in which triticale predominates. Special grades *Smutty* and *Garlicky* are currently applied to samples of wheat and rye and to samples of mixed grain in which wheat and rye are predominate.

12. FGIS proposes to revise section 810.901 so it does not apply to mixed grain, since the provisions of this section will be included in the Sample grade definition. Since this section will only apply to the standards for corn, rye, soybeans, and flaxseed, FGIS proposes to amend 7 CFR 810.901 to show that the section only applies to the standards for these four grains. As these four standards are reviewed, the provisions of § 810.901 will be incorporated elsewhere in the standards with the intention of eventually eliminating § 810.901 from all standards. The interpretation in § 810.901 has already been incorporated in the standards for wheat, barley, oats, sorghum, and triticale.

13. Incorporated also into this proposal are nonsubstantive changes to update references to handbooks and FGIS.

List of Subjects in 7 CFR Part 810

Export, Grain.

Accordingly it is proposed that the United States Standards for Mixed Grain be amended.

PART 810—[AMENDED]

Sections 810.451, 810.452, 810.453, and 810.901 are revised and §§ 810.454 through 810.459 are added with undesignated center headings to read as follows:

United States Standards for Mixed Grain [1]

Terms Defined

§ 810.451 Definition of mixed grain.

Mixed grain shall be any mixture of grains for which standards have been established under the United States Grain Standards Act, provided that such mixture does not come within the requirements of any of the standards for such grains and that such mixture consists of 50 percent or more of whole kernels of grain and/or whole and broken soybeans which will not pass through a 5/64 inch triangular-hole sieve and/or whole flaxseed passing through such a sieve.

§ 810.452 Definition of other terms.

(a) *Grades.—U.S. Mixed Grain*, or *U.S. Sample grade Mixed Grain*, and special grades provided for in § 810.458.

(b) *Foreign material and fines*. All material except whole flaxseed which passes through a 5/64 inch triangular-hole sieve, and all material other than grains for which standards have been

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

established under the Act, remaining on top of the sieve.

(c) *Damaged kernels.* Kernels and pieces of kernels of grains for which standards have been established under the Act, which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

(d) *Heat-damaged kernels.* Kernels and pieces of kernels of grain for which standards have been established under the Act, and which have been materially discolored and damaged by heat.

(e) *Moisture.* Water content in mixed grain as determined by an approved device in accordance with procedures prescribed in the Equipment Handbook[2] for the kind of grain which predominates in the mixture. For the purpose of this paragraph, *approved device* shall include any equipment that is approved by the Administrator as giving equivalent results.[3]

(f) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(g) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a test portion of the representative sample using an approved device in accordance with instructions in the Grain Inspection Handbook.[2] Test weight per bushel shall be expressed in whole and half pounds; a fraction of a half pound shall be disregarded. For the purpose of this paragraph, *approved device* shall include any equipment that is approved by the Administrator as giving equivalent results.[3]

Principles Governing Application of Standards

§ 810.453 Basis of determination.

Damaged and heat-damaged kernels, and the percentage of each kind of grain in the mixture shall be on the basis of the sample after removal of foreign material and fines. Test weight, moisture, odor, and foreign material and fines shall be determined on the basis of the sample as a whole. Determinations of definition are also made on the basis of the sample as a whole.

[2] The Equipment Handbook and the Grain Inspection Handbook copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

[3] Requests for information on approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

§ 810.454 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the mixed grain standards are applicable to grain produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of grain may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.455 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; for example, state 0.46 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure to be rounded only; for example, state 0.54 as 0.5.

(3) When the figure to be rounded is even and is followed by the figure 5, retain the even figure; for example, state 0.45 as 0.4. When the figure to be rounded is odd and is followed by the figure 5, round the figure to the next higher number; for example, state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the percentage of each kind of grain, and foreign material and fines, which are stated in terms of whole percent.

Grades, Grade Requirements, and Grade Designations

§ 810.456 Grades, grade requirements.

(a) *U.S. Mixed Grain (Grade).* Mixed grain with not more than 15.0 percent of damaged kernels, and not more than 3.0 percent of heat-damaged kernels, and which otherwise does not meet the requirements for the grade *U.S. Sample grade Mixed Grain.*

(b) *U.S. Sample grade Mixed Grain.* Mixed grain which does not meet the requirements for the grade U.S. Mixed Grain; or which contains more than 16.0 percent of moisture; or which contains stones; or which contains more than 2 crotalaria seeds (*Crotalaria* spp.) in 1000 grams of grain; or which is musty, or sour, or heating; or which has any commerically objectionable foreign odor except of smut or garlic; or which is otherwise of distinctly low quality.

§ 810.457 Grade designation.

(a) *Grade designation for Mixed Grain.* The grade designation for mixed grain shall include the words *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain,* and the name of each applicable special grade. The name and the approximate percentage of each kind of grain which constitutes 10.0 percent or more of the mixture in the order of predominance and when applicable, the words *other grains* followed by a statement of the percentage of the combined quantity of those kinds of grains, each of which is present in quantity less then 10.0 percent shall be shown in the remarks section of the certificate.

(b) *Optional grade designation.* Mixed grain may be certificated under certain conditions,[4] when supported by official analysis as *U.S. Sample grade or better Mixed Grain.* The special grade designation, when applicable, also shall be included (under certain conditions [4]) in the certification.

Special Grades, Special Grade Requirements and Special Grade Designations

§ 810.458 Special grades and special grade requirements.

(a) *Smutty mixed grain.* (1) Mixed grain in which wheat, rye, or triticale predominates, and which contains balls, portions of balls, or spores, of smut, in excess of a quantity equal to 14 balls of average size in 250 grams of mixed grain, or (2) Any other mixed grain which has the kernels covered with smut spores, or which contains smut masses and/or smut balls in excess of 0.2 percent.

(b) *Ergoty mixed grain.* Mixed grain which contains ergot in excess of 0.10 percent.

(c) *Garlicky mixed grain.* (1) Mixed grain in which wheat, rye, or triticale predominates, and which contains 2 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets in 1,000 grams of mixed grain; or (2) any other mixed grain which contains 4 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of mixed grain.

(d) *Weevily mixed grain.* Mixed grain which is infested with live weevils or other insects injurious to stored grain.

(e) *Blighted mixed grain.* Mixed grain in which barley predominates and

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250.

which, as a whole, contains more than 4.0 percent of barley damaged or materially discolored by blight and/or mold.

(f) *Treated mixed grain.* Mixed grain which has been scoured, limed, washed, sulfured, or treated in such a manner that its true quality is not reflected by the grade designation *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain.*

§ 810.459 Special grade designations.

(a) The special grade designation for smutty, ergoty, garlicky, weevily, and blighted mixed grain shall include as applicable, folowing the terms *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain,* the word(s) *Smutty, Ergoty, Garlicky, Weevily,* or *Blighted,* and all other information prescribed in § 810.457.

(b) The special grade designation for treated mixed grain shall include the word *Treated,* followed by a statement indicating the kind of treatment (that is, scoured, limed, washed, or sulfured).

Interpretations

§ 810.901 Interpretation with respect to the term distinctly low quality.

The term *distinctly low quality,* when used in the United States Standards for Corn, Rye, Soybeans, and Flaxseed, shall be construed to incude grain which contains more than two crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain.

(Secs. 5 and 18, Pub. L. 94-582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87e))

Dated: March 21, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 83-8498 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Parts 1007, 1004, 1011, and 1046

[Docket Nos. AO-366-A20 et al.]

Milk in Georgia and Certain Other Marketing Areas; Emergency Decision on Proposed Amendments to Marketing Agreements and Orders

7 CFR Part, Marketing Area, and AO Numbers

1007—Georgia, AO-366-A20
1004—Middle Atlantic, AO-160-A60
1011—Tennessee Valley, AO-251-25
1046—Louisville-Lexington-Evansville, AO-123-A51

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis proposed amendments to the Georgia, Middle Atlantic, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk marketing orders. The order changes would provide handlers with limited transportation credits from the marketwide pool for certain Class II and Class III milk transferred or diverted to unusually distant outlets for surplus disposal. The changes, which would apply only through June 30, 1983, were considered at a public hearing held on March 1, 1983, in Atlanta, Georgia. The order changes were requested by a cooperative association that represents dairy farmers who supply milk to the four markets.

The adopted order changes are necessary to reflect current marketing conditions and to insure that all producers in the affected markets share more equitably in the costs of disposing of unusually large supplies of surplus milk that are expected this spring. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exception thereto have been omitted. The adopted amendments for each order must be approved by at least two-thirds of the producers in the respective markets before they can become effective.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significantly adverse economic impact on a substantial number of small entities. The amendments will promote more orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued February 15, 1983; published February 22, 1983 (48 FR 7461).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Altanta, Georgia, on March 1, 1983. Notice of such hearing was issued on February 15, 1983, and published in the **Federal Register** on February 22, 1983 (48 FR 7461).

Interested parties were given until March 11, 1983, to file post-hearing briefs on the proposals as published in the notice of hearing and on whether these proposals should be considered on an expedited basis.

The material issues on the record of the hearing relate to:

1. Whether the four orders should be amended to provide handlers with transportation credits from the marketwide pool on certain shipments of surplus milk during March, April, May and June 1983.

2. Whether emergency marketing conditions in the four regulated areas warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Finding and conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Transportation credits on surplus milk shipments.* The Middle Atlantic, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville orders (the latter three hereafter are referred to as the Southeast orders) should be amended to provide handlers with limited transportation credits from the pool on movements of milk to distant manufacturing plants. The credits should be made available as soon as possible and should continue through June 1983. Such credits are not now operative in any of the orders but were provided for several orders, including those involved in this proceeding, during a limited period in 1982.

Dairymen, Inc. (DI), a dairy farmer cooperative association, proposed amendments to the Middle Atlantic, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville orders. The cooperative represents producers whose milk is pooled under each of these orders.

The proposals, which are virtually identical to provisions adopted for the spring months of 1982, would provide transportation credits of 3.6 cents per hundredweight per 10 miles to handlers for Class II and Class III milk moved to certain nonpool plants. The proposals would specify for each order an area within which such movements of milk would not be eligible for a transportation credit. Thus, the credits

would apply only to that portion of the hauling that is involved in moving milk beyond the no-credit area to nonpool plants. These limitations on credits would vary from order to order. The total of such credits would be deducted from the value of milk in the monthly marketwide pool, which would result in a reduction in the returns to be distributed to those producers who participate in the pool. The proposed credits would be applicable only for the months of March, April, May and June 1983.

A spokesman for DI testified that the proposed credits would help ensure that all producers supplying a market would share in the cost of handling unusually large surplus milk supplies again this spring. According to the witness, further increases in milk production and a continued decline in Class I milk sales in the Southeast orders will result in even greater quantities of milk having to be moved to distant manufacturing outlets during March, April, May and June of this year than were moved last year. He stated that the hauling problem is also due in part to the closing of several manufacturing plants over the last ten years, which has reduced the capacity to handle surplus milk throughout the Southeast area. DI also held that increased production and reduced fluid milk sales likewise have produced a serious surplus milk handling problem in the Middle Atlantic market. In DI's view, the increase in production is due to a general increase in milk output as dairy farmers attempt to maintain their cash flow during a time of economic difficulties. The cooperative's spokesman said he believed that production continues to climb because suitable alternatives to dairy farming are not available under current economic conditions, and that dairy farmers are doing well relative to those engaged in other agricultural enterprises. This, he maintained, increased production results not because any particular group of farmers has decided to produce more milk, but rather because almost all dairy farmers are producing more milk.

DI's spokesman introduced an exhibit showing annual milk production for selected states in 1981 and 1982, as well as monthly production data for January 1982 and 1983, and showing the percentage change from the same period a year earlier. The states included are Georgia, Kentucky, Maryland, Pennsylvania, Tennessee, and Virginia. He noted that for the six-state area total milk production in 1982 was up 2.5 percent from 1981. In January 1983, combined milk output was up 2.3 percent from a year earlier. He explained that these six states make up the primary supply area for the orders under consideration in this proceeding.

DI's spokesman also introduced an exhibit showing total producer milk receipts and producer milk allocated to Class I and Class III (Class II in the Middle Atlantic order) in December 1980, 1981, and 1982 for the four orders. He noted that these data show that producer milk receipts in December 1982 were up 4.0 percent over a year earlier and 10.7 percent over two years earlier. He indicated that although producer milk assigned to Class I in the four markets for December 1982 was up 0.8 percent over a year earlier and 5.8 percent over two years earlier, Class III producer milk was up 8.3 percent and 17.5 percent from December 1981 and 1980, respectively. He pointed out that the modest increase in Class I sales was attributable to the August 1981 opening of a large plant at Murfreesboro, Tennessee, which is pooled under the Georgia order, and the regulation of a bottling plant in South Carolina that previously was unregulated. The witness testified that absent these events the producer milk reported as allocated to Class I would have declined over the 2-year period. He also introduced similar data for April 1980, 1981 and 1982 for the same purpose, i.e., to demonstrate that production is up and sales are down.

The DI witness stated that in the spring months of 1981 and 1982 the cooperative had to move milk to unusually distant outlets for surplus disposal in spite of the relative success of the cooperative's programs designed to give members an incentive to reduce production during the "flush" period. He indicated that the cooperative had hoped that the problem would not recur in 1983 because of expectations that the general trend of production increases would peak and then flatten out somewhat at about year-earlier levels as a result of anticipated changes in the dairy support program, and that the decline in Class I sales would be reversed by a general upturn in the economy. The witness claimed that it was not until after the 1982 Christmas holidays, when it became clear that these expectations would not be realized, that the cooperative concluded there would be an unusually large volume of surplus milk to dispose of during March, April, May and June 1983. He stated that the cooperative then decided that it should propose changes in the four orders.

DI contended that absent the proposed changes some handlers (primarily DI) would carry the full burden of disposing of the larger than normal milk supplies in the four markets this spring. The cooperative's witness stated that DI is a major supplier of milk to fluid milk plants in three of the four markets (all but Middle Atlantic) and is responsible for handling more than its share of all four markets' surplus milk dispositions. He noted that DI balances the daily, weekly, and seasonal fluid milk needs of many plants that receive a portion of their supplies from independent producers. He stated that such plants generally rely on the cooperative to dispose of any surplus milk associated with their operations. He also indicated that some plants call on the cooperative only for "spot" loads of milk when they need it in addition to their regular supplies.

DI maintained that a substantial amount of the extra milk supplies that will need to be handled this year will have to be moved to outlets that are much more distant from the markets than those that usually can accommodate the markets' surplus dispositions. These would include outlets in Ohio, Indiana, Illinois, Iowa, New York, Minnesota, and Wisconsin. The cooperative's witness noted that during the week ending December 31, 1982, DI moved milk to several of these states because manufacturing capacity in the Southeast was inadequate to handle the additional milk. He estimated that for the four markets under consideration there will be 32 million pounds more surplus milk to be handled in April 1983 than in April 1982 based on the extent to which April production normally increases from the previous December. The witness also stated that compared to last year DI expects to handle 25.7 million additional pounds of milk during April 1983 and an estimated additional total of 59 million pounds for April through June.

The cooperative proposed the transportation credits to help offset some of the costs DI expects to incur in moving these excess milk supplies to distant outlets to clear the markets. The cooperative's spokesman presented data showing that during December 1982 DI paid an average of 4.2 cents per hundredweight per 10 loaded miles to contract haulers to move 245 loads of milk. He further stated that DI's cost to haul comparable loads of milk similar distances in the cooperative's own equipment currently is 3.6 cents per hundredweight per 10 loaded miles. Based on these data, the spokesman claimed that 3.6 cents per hundredweight per 10 loaded miles is a reasonable reflection of the actual costs

incurred to haul milk to distant plants and thus would be an appropriate rate for the proposed credit.

The DI spokesman identified the manufacturing plants and their locations that normally are used as outlets for surplus milk by fully regulated handlers in each of the four markets. He also presented estimates of the capacities of most such plants available for manufacturing surplus Grade A milk, noting that some of the plants have regular supplies of non-Grade A milk. The locations of these plants provided the basis for the proposed provisions that would allow handlers a pool credit for transportation of milk to manufacturing plants more distant than those indicated as the normal outlets.

To summarize, DI contends that because of a widespread imbalance between the supply and demand for milk, the orders should again be amended for a limited time so that all producers in each market will share equitably in the costs of disposing of the unusually large surplus milk supplies that will be associated with these markets this spring. The credits would be available to any handler that incurred such costs. The cooperative also contends that, because of the unusual supply-demand situation, the current marketwide pooling arrangement is unable to provide such equity during this 4-month period. DI also held that the problem tends to be regional in nature, and that the proposals must be adopted for each of the four orders.

DI claimed that absent the proposed amendments disorderly marketing conditions would develop. Excess supplies in some markets could prompt price cutting by some handlers in an attempt to obtain local outlets for surplus milk. Handlers unable to obtain a local outlet under these circumstances would be forced to bear the total cost of moving surplus milk to distant outlets. As a result, the burden of disposing of milk historically associated with the market would be unevenly distributed. In addition, unusually large milk supplies in areas immediately surrounding these markets may preclude the use of manufacturing facilities in these areas as outlets for surplus milk for the four markets under consideration. It is the cooperative's view that the proposed credits would provide a mechanism for handling the surplus milk and thus minimize the anticipated disorderly marketing conditions.

DI urged the Secretary to adopt the proposals on an emergency basis in order that they could be made applicable to surplus milk handled during the four months.

A representative of Inter-State Milk Producers' Cooperative, Southampton, Pennsylvania, testified in support of the proposals. The spokesman indicated that the marketing conditions throughout the Southeast as described by DI are quite similar to the problems being experienced by Inter-State in the Middle Atlantic market. Because of this, the cooperative also urged that the Middle Atlantic order be amended on an emergency basis and that the changes apply for the months of March, April, May and June 1983. The spokesman testified that Inter-State expects to move milk to plants beyond the proposed 200-mile zero credit zone and that the costs associated with these shipments should be borne by all producers who supply the market during these months.

A representative of Southeastern Graded Milk Producers Association expressed support for DI's proposals. The spokesman stated that the cooperative sells most of its producers' milk to Southern Belle Dairy of Somerset, Kentucky, a handler regulated by the Louisville-Lexington-Evansville order. The witness indicated that during the spring months of 1982, the cooperative shipped surplus milk to distant nonpool plants and that some of these shipments qualified for transportation credits then in effect. The cooperative anticipates that additional surplus milk this spring will have to be hauled long distances and such shipments would qualify for the proposed credits.

Two proprietary handlers also expressed support for DI's proposals to amend the orders, while two others opposed the proposals.

A spokesman for Mayfield Dairy Farms, Inc., which operates a plant fully regulated under the Tennessee Valley order, stated that the handler was opposed to granting any transportation credits as long as the plant is paying service charges and/or premiums for milk. The witness indicated that the plant receives about 50 percent of its milk from independent producers and the balance is supplied by DI.

Kinnett Daries, which operates a plant pooled under the Georgia order, opposed any change to that order. The handler's spokesman listed several reasons for their opposition: (1) The notice for the hearing was inadequate in that at least 15 days' notice was not provided; (2) the proposed changes are discriminatory and unfair because they would benefit DI but would not help small, independent processors; (3) the proposed changes would penalize small, independent dairy farmers, particularly those that supply milk to Kinnett Dairies; and (4) the over-order premiums that DI charges independent processors are sufficient to cover the hauling costs that DI wants to recover through the proposed transportation credit.

The witness for the handler indicated that its milk is obtained from independent producers and two cooperative associations. He further stated that the two cooperatives dispose of the surplus milk when production exceeds the handler's needs. In his view, the over-order charges paid to the cooperatives on a year-round basis adequately compensates them for the balancing services they provide. The witness stated that if the Secretary decided to adopt the proposals, the decision should clearly state that the changes are temporary.

The National Farmers' Organization (NFO), a cooperative that markets milk for its members in the Middle Atlantic and Louisville markets, opposed the adoption of the DI proposals. The NFO spokesman noted that members' milk also is marketed on the Ohio Valley, Eastern Ohio-Western Pennsylvania, New York-New Jersey and Nashville, Tennessee, Federal order markets, which are adjacent to certain of the markets for which DI is proposing order amendments.

The NFO spokesman stated several reasons for opposing DI's proposals. One was that NFO members would have their returns from the sale of milk lowered if the proposed credits are provided. Also, it was NFO's view that subsidizing Class II and Class III shipments would have unsettling and adverse impacts on some markets adjacent to those included in this proceeding. The concern was that surplus milk from the Georgia, Tennessee Valley, and Louisville markets would be made available to manufacturing plants in Ohio at prices below those normally prevailing in Ohio. NFO held that such milk would displace local milk at Ohio manufacturing plants and that the Ohio milk then would have to be moved to distant outlets without the benefit of a transportation credit. The witness contended that such a situation could domino into other markets, thus creating disorderly marketing conditions. He indicated that the surplus milk problem is even greater in Ohio than in the markets under consideration in this proceeding, which would aggravate any depressing effect the existence of transportation credits in the four orders under consideration would have on pay prices in surrounding markets. NFO's

witness also claimed that the proposed amendments depart from traditional Federal order pricing methods and may not be in accord with the Agricultural Marketing Agreement Act. He also stated that such provisions should not be adopted on an expedited basis because, in his view, there had not been sufficient time to fully analyze the impact of the proposals to identify all possible abuses that could occur if the proposals were to be adopted.

Opposition also was expressed by a spokesman for 35 independent producers located in southern Tennessee who ship their milk to a plant regulated under the Georgia order.

Most of the parties in this proceeding, whether they supported order amendments or opposed them, generally agreed that surplus milk supplies will be much larger this spring than a year ago. They also recognized that milk production is generally up throughout the Southeast and the Middle Atlantic area, and that Class I sales generally have been declining. This common perception is supported by data presented at the hearing.

In the six states (Georgia, Kentucky, Maryland, Pennsylvania, Tennessee, and Virginia) that supply most of the milk pooled under the four orders involved in this proceeding, total production in 1982 was up more than 2 percent from 1981. Production increased in all six states, with the increases varying from a one percent increase for Georgia to a 3.3 percent increase in Pennsylvania.

Similarly, total producer milk pooled under the four orders in 1982 was up 4.4 percent over a year earlier. For the Middle Atlantic market producer milk receipts in 1982 increased 1.7 percent over 1981. The three Southeast orders experienced an 8.1 percent increase in producer milk for 1982 over 1981. Part of that increase resulted from new plants and previously unregulated plants that became fully regulated in 1982. However, even when these events are taken into consideration, it is clear that the Southeast and the Middle Atlantic areas continued to experience a rather substantial increase in milk production.

At the same time, sales of Class I milk (fluid milk products) in the four Federal order marketing areas declined. For all four orders combined, such sales declined 1.6 percent in 1982. The decline ranged from 2.3 percent for the Middle Atlantic market to 0.6 percent for Georgia. The three Southeast orders experienced a Class I sales decline of almost 1 percent.

These data indicate that in the Southeast and the Middle Atlantic areas milk production is increasing while at the same time Class I milk sales are declining. As a result, it is concluded that there will be greater quantities of milk not needed for fluid use than a year ago that will need to be disposed of to manufacturing outlets during the spring months of 1983, which is the time of seasonally high production. In view of this, it is necessary to determine whether the over-supply situation will cause marketing problems that should be dealt with through changes in one or more of the Federal orders involved, as proposed by DI.

Based on the evidence presented at the hearing, the most likely marketing problem will be the disposition in the next few weeks of additional surplus milk to manufacturing outlets. If local manufacturing capacities are adequate to handle the milk, no unusual problems would be expected. However, the record indicates that there is not likely to be adequate manufacturing capacity in the normal surplus disposal area for some of these markets, particularly on weekends.

Exhibits were introduced at the hearing listing the major manufacturing plants that process surplus Grade A milk supplies associated with the four orders under normal supply and demand conditions. One exhibit lists such plants in the Southeast, with an estimate of the volume of Grade A milk that each plant can handle. The total Grade A capacity of these plants was estimated at about 270 million pounds per month. Such data cannot be used alone, however, for determining whether this manfacturing capacity is inadequate to handle all the milk. For example, in December 1982 total Class II and Class III producer milk for the Southeast orders amounted to about 136 million pounds, which obviously is less than the total manufacturing capacity shown in the exhibit. Moreover, while the details are not available, it is presumed that not all of that milk would have needed to move to such outlets, such as milk in Class II uses.

There are several reasons why such a comparison is inconclusive. One is that many of these same manufacturing plants also serve as outlets for surplus milk from unregulated areas in North Carolina, South Carolina, and Virginia, as well as for other nearby and adjacent Federal order markets. Also, excess milk supplies are not evenly distributed throughout the month. Instead, such supplies may be particularly heavy during peak weeks and on weekends, with the surges of surplus milk being far more than can be handled by local manufacturing plants during the short time periods. For the same reasons, similar information presented for the Middle Atlantic market also is inconclusive to demonstrate an adequacy of manufacturing capacity.

It also should be noted that some of the manufacturing plants in the Southeast also receive and process non-Grade A milk, with such milk being their regular supply of milk. To the extent that production of non-Grade A dairy farms also may be increasing, as would be expected, more of the manufacturing capacity would be utilized for such milk, which would decrease the capacity available for surplus Grade A milk.

The best available approach to establishing whether or not surplus milk must be moved unusually long distances to manufacturing plants from the markets involved is to look at what has happened in the past. Data were provided at the hearing for 1-week periods during the December holiday season for the past 4 years and during a week ending in mid-April for the past 3 years, times when surplus milk dispositions were much larger than usual. During the week ending December 31, 1982, DI shipped about 9 million pounds of milk to plants that ordinarily do not handle surplus milk for these markets from its six producer divisions that normally supply milk to these four markets. The distant outlets included plants in Ohio, Indiana, Wisconsin, New York, Illinois, and Missouri. During the same week 3 years earlier, DI moved less than 1 million pounds in this manner, of which only 192,000 pounds went to a location in Ohio, the most distant outlet utilized for the four markets.

During the week ending April 16, 1982, DI moved about 4.2 million pounds of pooled surplus milk to manufacturing plants outside of what it considers the range of regular outlets for the four markets, including some milk that moved to Ohio and Missouri. During the same week in 1980, DI moved only 278 thousand pounds of pooled surplus milk to manufacturing plants other than the normal outlets for these markets.

For the markets in this proceeding, surplus milk disposal is handled primarily by cooperative associations. This stems in part merely from the fact that cooperatives are the major suppliers of milk for fluid distribution. In the Middle Atlantic market, DI and Inter-State Milk Producers account for about half of the market, with DI supplying an estimated 14 percent. In the other markets involved, DI is the major supplier. Its share of the market in December 1982, in terms of milk pooled, was as follows: Georgia, 63 percent; Tennessee Valley, 82 percent; and

Louisville-Lexington-Evansville, 48 percent.

The evidence supports DI's claims that it is not only the major balancer of milk supplies in much of the Southeast but that indirectly it is balancing the surplus milk of nonmember producers as well. This was acknowledged in specific cases by the representatives of two proprietary handlers who testified. The record discloses that in all of these markets there are pool distributing plants that receive only part of their supplies from DI. In the Georgia market, DI indicated that it regularly supplies milk to 16 pool distributing plants. Of these, 10 receive all of their milk from DI while four receive from one-third to about three-fourths of their supplies from DI. Two other plants receive milk from DI on a "spot," or irregular shipment, basis. In the Tennessee Valley market, DI supplies seven pool distributing plants. Four are fully supplied by DI and three are partially supplied by DI. At least one handler receiving a partial supply from DI receives milk from independent producers. In the Louisville market, eight plants regularly receive milk from DI. Five of the eight obtain all of their milk from DI.

The handling of a market's surplus milk can fall unevenly on different groups of producers. As just indicated, DI supplies a number of distributing plants only on a partial basis. A handler may have a group of independent producers, or perhaps a particular group of producers who are members of a cooperative, from which milk is received on a regular basis throughout the year. As the milk production of these producers declines during the seasonal short-production months, the handler may need supplemental supplies and will buy milk from a cooperative such as DI. Then, during the spring, when milk production increases, the milk from the handler's regular producers may be sufficient, or nearly so, to cover his needs and he cuts back the supplemental purchases from DI. In this situation, the producers who are the handler's regular suppliers do not share in the costs of balancing the handler's fluid needs. Instead, these costs fall, in this example, solely on DI. If the surplus milk must be hauled unusually long distances, the cost burden can be particularly heavy on the cooperative.

Although the cost impact of handling surplus milk normally falls largely on members of cooperatives, nonmember producers are not necessarily immune to adverse impacts of the heavy supply situation. Proprietary handlers who do their own balancing may experience difficulties in disposing of the excess milk supplies of their independent producers. Any long-distance milk shipments must be borne by the handlers since they are required to pay producers the minimum Class III (or Class II) price for the milk. Their alternative is to refuse to accept all the milk produced by these dairy farmers. If the latter situation occurred, the impact would fall entirely on those dairy farmers. Any widespread occurrence of this situation could lead to disorderly marketing conditions.

Under normal conditions of supply and demand for fluid milk, the Federal order marketwide pools serve to assure that all producers supplying each market share in both the Class I and surplus values of the milk that is pooled in their market. Such pooling is normally adequate to achieve reasonably equity among all the market's producers. However, in the unusual circumstances that currently exist in much of the Southeast and the Middle Atlantic areas, the orders do not provide a mechanism for ensuring that unusually high costs incurred in handling a market's surplus milk are shared equitably by all producers on that market. Thus, the orders should be amended along the lines proposed to maintain the degree of producer equity that otherwise is obtained through the operation of marketwide pools.

Two proprietary handlers, a cooperative and a group of independent producers objected to the adoption of pool credits on surplus milk movements. The points discussed below were raised at the hearing and/or in their post-hearing briefs.

NFO contended that the proposed amendments are not necessary to preserve producer equity. Their brief noted that the transportation credits provided in these markets in 1982 were not used extensively, and pointed to DI's own programs that have induced its members to reduce milk production in the spring months of 1981 and 1982 as evidence that the problem can be managed internally by cooperatives.

The effectiveness of DI's previous programs to reduce milk production and the extent to which the transportation credits provided in 1982 were utilized by handlers are not relevant to this proceeding. The current record demonstrates that these four markets will experience a supply-demand imbalance this spring and that a significant amount of milk will have to be transported to unusually distant manufacturing plants. As stated previously, this imbalance could create disorderly marketing conditions in which a major part of the cost of disposing of surplus milk would be borne by a small number of producers or handlers. The amendments adopted in this decision will reduce the probability that disorderly marketing conditions will develop, and will help avoid inequities to certain producers.

NFO also contended that the questions of producer equity raised in this proceeding are so important that they should not be resolved without first issuing a recommended decision and giving interested parties an opportunity to comment. Such an approach would preclude any action by the Secretary in time to deal with the problem at hand. Timeliness is an issue here because the proposed remedies would be applicable for only a limited period this spring.

NFO argued that handlers could profit from the proposed credits by hauling milk between plants that qualified for credits under two different orders. NFO contended that the hauling cost for milk where a backhaul is involved could be less than 3.6 cents per 10 miles per hundredweight and, therefore, the rate of credit proposed by DI was too high. There is no basis in the record for concluding that any substantial volumes of milk that might move to distant outlets this spring would be moved at rates based on backhauls. DI's witness estimated that backhaul rates would apply to substantially less than 10 percent of the type of hauls being considered for the credit. It is noted that the data DI offered in support of the 3.6-cent rate show that only 27 of the 247 load hauled by contract haulers moved at rates less than 3.6 cents per hundredweight per 10 miles. The lowest rate indicated was 2.91 cents per hundredweight per 10 miles, while the highest rate shown was 5.35 cents. The average rate for the 245 loads was 4.20 cents per hundredweight per 10 miles, yet DI's proposed rate was 3.6 cents, which is lower than the average. Although the evidence in this case indicates that a higher rate may be justified, a rate of 3.6 cents per hundredweight per 10 miles is a reasonable rate to reflect the cost of hauling milk in large tank trucks.

NFO also expressed concern that the pool credits proposed by the cooperatives could disrupt the marketing of milk in such areas as Minnesota, Wisconsin, Illinois, Indiana, Ohio, and New York. Their brief indicated that the distressed milk supplies in the three orders would be moved to manufacturing plants in these areas, and they contended that the pool credits would, in effect, subsidize the disposal of surplus milk in the northern

areas. NFO claimed that this would make it possible for the milk to be offered to the northern plants at prices below those prevailing locally for surplus milk. It was argued that the "subsidized" surplus milk from these markets could displace local milk at the northern plants, with the local milk then having to be moved to other distant outlets at considerable expense to producers in the northern areas.

It is recognized that with the pool credits on long-distance milk shipments there could possibly be a limited displacement of local milk at manufacturing plants in the northern areas. At least two factors, however, would tend to cause this not to happen. The pool credits adopted herein would not cover all of the cost of hauling the milk. As discussed later, no-credit zones would extend anywhere from 200 to 350 miles from basing points in the local markets. Milk would have to be moved beyond the no-credit zone before a credit would start to apply. Thus, handlers moving the milk would have a strong incentive to find the highest possible price for their surplus milk.

Additionally, once milk is moved beyond the no-credit zone, the incentive to move the milk to the nearest manufacturing plant would tend to be minimal since the 3.6-cent credit rate would cover most of the hauling to any point beyond the no-credit zone. This would tend to lessen the likelihood of handlers under the orders having credits offering surplus milk at distress prices for the purpose of finding a closer outlet.

In this regard, it might be argued that the pool credit arrangement should provide some kind of incentive to move milk to the closest plant. However, in view of the concerns expressed about the possibility of "displaced" milk, it is concluded that this should not be done so that handlers will have more flexibility in seeking surplus milk outlets in the northern areas.

NFO took issue with DI's contention that the pool credits were authorized by § 608c(5)(A) of the Agricultural Marketing Agreement Act. NFO noted that the Act requires class prices under an order to be uniform among all handlers except for certain adjustments, including an adjustment for the location of the plant at which the milk is received. NFO argued that the pool credits would be inconsistent with this provision of the Act. They claimed that the pool credits would be, in effect, an adjustment to the Class III (or Class II) price. In this regard, they pointed out that the credits could vary from handler to handler, by virtue of different points of origin, even though all the handlers may have delivered the surplus milk to the same distant plant. It was argued that under this circumstance the credits would result in Class III prices that are not uniform among all handlers.

In a related but somewhat different vein, NFO also claimed in its brief that the pool credits appeared to result, in effect, in the establishment of a sub-classification of Class III milk based on the distance that the surplus milk is transported. It was argued that this would contravene the principles of *Inter-state Milk Producers' Cooperative v. Butz*, 372 F.Supp. 1010 (E.D. Pa. 1974), a case that dealt with the classification of milk on the basis of distance. Also, NFO argued that within this sub-classification different handlers would be charged different class prices.

The pool credits adopted herein do not represent the establishment of a sub-Class III classification for milk, nor do they represent adjustments to the Class III (or Class II) price for the location of the receiving plant. Instead, such credits represent an additional mechanism in the order for maintaining a reasonable degree of equity among all producers whose milk is pooled and priced under the order. The authority for such a provision is § 608c(7)(D) of the Act, which provides that an order may contain terms and conditions incidental to, and not inconsistent with, other provisions of the Act if such terms and conditions are necessary to effectuate the other provisions of the order. NFO, in its brief argued that the conclusion just stated, which also was reached in the decision adopting limited transportation credits in 1982, is in error. NFO holds that the credits are not legal under § 608c(7)(D) because credits are inconsistent with the uniformity requirement of § 608c(5) (A) and (B).

One of the underlying purposes of the Act is to establish orderly marketing conditions for dairy farmers. The Act authorizes a number of specific means for achieving this, including the pooling of milk on a marketwide basis. Through this pooling procedure, all producers in the market share equitably in both the market's higher-valued fluid sales and the reserve milk supplies that necessarily must be available in the fluid market but which return only the lower manufacturing value. History has demonstrated that in the absence of marketwide pooling the burden of the lower-valued reserve supplies falls unevenly on various groups of producers. This tends to result in various disorderly conditions in the market that are harmful not only to producers but to handlers and consumers as well. Producers have found it in their long-run interest to share uniformly in the burden of the reserve milk supplies.

The pool credits adopted herein are an extension of this marketwide sharing concept. As already described, unusual supply-demand conditions are resulting in certain producers bearing an inequitable share of the costs of handling excess milk supplies associated with the fluid markets. The pool credits represent a reasonable means of maintaining orderly marketing conditions for producers.

The NFO brief also claimed that the pool credits are similar in substance to order provisions found unlawful by the Supreme Court in *Brannan v. Stark*, 342 U.S. 451 (1952). It was pointed out that under the provisions in question in that case cooperatives received a payment from the pool for certain prescribed activities, including the handling of surplus milk. NFO argued that the pool credits proposed by Dairymen, Inc. are unlawful on the basis of the Court's ruling in *Brannan*.

The record of the current proceeding and the manner in which the pool credits adopted herein would apply provide a sufficient basis for distinguishing these credits from those found unlawful in *Brannan*. The record strongly demonstrates that the markets under consideration will be faced this spring with a severe and abnormal problem of disposing of surplus milk. It also indicates that the burden of moving much of this milk unusually long distances will fall unevenly on various producers in the market even though the surplus problem can be attributed essentially to all producers. Moreover, all handlers in the market, whether proprietary handlers or cooperative associations, would be eligible for a pool credit on the surplus milk shipments. In addition, the credits would apply only when the distant milk shipment actually occurs. In *Brannan*, the pool credits in question accrued routinely to cooperatives irrespective of the extent to which marketwide services may have been performed. Thus, the argument presented on this issue in NFO's brief cannot be accepted.

Two proprietary handlers, and NFO in its brief argued that the pool credits proposed by Dairymen, Inc., should not be adopted in view of the over-order charges that the cooperative is charging handlers for milk which they purchase. These handlers claimed that such charges supposedly provide the cooperative adequate compensation for balancing the fluid milk needs of the handlers that it supplies.

There is insufficient information in this record to make any determination

concerning the over-order charges that prevail in these markets. Such charges are basically outside the scope of the order program since Federal orders establish only the minimum prices that regulated handlers must pay to producers. It is recognized that the existence of over-order charges, their amount, their purpose, and whether they result in over-order blend prices to producers are all factors that have relevance in the market. Nevertheless, over-order charges are outside the order program's authority. For this reason, information on over-order charges is seldom sought or made available at public hearings.

The lack of such information is not critical to deciding the appropriateness of the pool credits adopted herein. It is evident that several of the markets are faced with the problem of inadequate manufacturing capacity in the normal surplus disposal area. The record evidence indicates that substantial quantities of milk will have to be moved to distant plants at considerable cost. Such costs were not contemplated in establishing the Class III (Class II) price level for these markets. Thus, it is evident that the current order provisions are not in line with present marketing conditions. This determination is not contingent upon the existence or level of over-order charges in these markets.

In opposing the proposed transportation credit on surplus milk shipments, two parties argued that the hearing was called on unusually short notice. They claimed that this deprived them of the opportunity to prepare adequately for the hearing. It was argued that the proponent cooperative presumably was aware well in advance of the deteriorating marketing conditions that prompted the hearing and that any petition for a hearing should have been submitted in time to permit normal amendatory procedures.

The procedures followed in issuing the notice of hearing for this proceeding were in accordance with the Agricultural Marketing Agreement Act, the Administrative Procedure Act, and the Department's rules for formulating milk orders. In all cases, a hearing may not be held less than three days after the date of publication of the notice in the Federal Register. Under normal circumstances, at least 15 days' notice must be provided. The rules provide, however, that a shorter notice may be given when the Department determines that an emergency exists. The Department concluded after receiving the request for a hearing that there was a reasonable indication of an emergency situation and that less than 15 days' notice was warranted. As noted earlier, the hearing notice was published in the Federal Register on February 22 and the hearing was convened seven days later.

It is recognized that the amount of notice provided the industry was relatively short. The record of this hearing, however, substantiates the Department's pre-hearing determination that emergency conditions appeared to exist in the area under consideration. It is clearly evident that the order changes sought by proponents could not be made in time to be helpful if the proceeding is not handled on an expedited basis. In this circumstance, the short notice regarding the hearing was consistent with the marketing conditions at hand.

In addition to the views expressed by parties who made appearances at the hearing, a brief expressing opposition to the proposals was filed by Land O'Lakes, Inc. (LOL), Arden Hills, Minnesota. LOL, an agricultural cooperative, took the position that the problem addressed by the proposals, namely the orderly disposition of an unusually large supply of Grade A milk that is surplus to the fluid market, is long-term in nature and nationwide in scope. LOL, therefore contended that an emergency hearing for four orders is not an appropriate way to resolve the problem. LOL also contended that the proposed amendments raise fundamental questions of producer equity. These points also were raised directly or indirectly by other interested parties and have been previously addressed in this decision.

LOL also expressed the view that a better means of resolving the surplus disposal problems would be to reduce Class I milk prices. However, the level of Class I prices was not an issue in this proceeding and thus cannot be considered here.

The order changes adopted herein for the Middle Atlantic, Georgia, Tennessee Valley and Louisville-Lexington-Evansville orders are those proposed by the cooperative association with only a minor alteration regarding the effective date. The provision would be uniform among the orders, except for the definition of the zero credit zone. As noted earlier, the proposed credit rate of 3.6 cents per hundredweight per 10 miles should be adopted for each of the orders amended.

At the hearing and in its brief, NFO stated that the credits more appropriately should reduce only the pooled value of excess milk in the orders that include base-excess plans for paying producers. It is noted that although DI's representative at the hearing concurred with that view, no substantive modification of the proposals or further discussion was offered. Thus, the record lacks any basis for concluding that the credits should be so applied.

Each order should specify an initial distance for which hauling credits would not apply on surplus milk movements. A credit would be applicable to the balance of the haul. In this regard, the evidence supports a procedure whereby the distance to each nonpool manufacturing plant would be measured from the nearer of the basing points now specified in the order for the purpose of determining location adjustments to handlers and producers, the location of the pool plant from which the milk was transferred, or, if the milk is diverted, the location of the pool plant where the milk was last received or the location of the county courthouse in the production area where the diverted milk was produced. Since the milk of those producers who are associated with a particular load of diverted milk may have been delivered to more than one pool plant just prior to being diverted, the pool plant that received the largest portion of such milk should serve as the point from which the mileage to the nonpool plant is measured. Similarly, since a load of diverted milk may include the milk of several producers, the courthouse of the county where the largest portion of the load was produced should be the basing point for that load when the producton area is the closest measuring point on the surplus milk movement. This method of determining the loads of milk for which a credit would apply was proposed by DI and is the same as the provisions adopted for a limited time in 1982. Moreover, no other proposals or modifications were forthcoming at the hearing.

The specific provisions adopted for the four orders are described in the paragraphs that follow.

Middle Atlantic order. In the Middle Atlantic market, transportation credits from the pool should be available to the extent that the distance to the nonpool plant from the nearest of the several locations specified exceeds 200 miles. The 200-mile no-credit area appears to be appropriate based on the location of the plants that normally handle the usual supplies of surplus milk associated with that market and the location of pool plants that serve the market. Thus, no credit would be received for any milk that moved 200 miles or less.

The Georgia order. The provisions adopted for the Georgia order would not provide a transportation differential for any movements of surplus milk that moved less than 350 miles. The basis for

such distance is that the normal outlets for surplus milk associated with pool plants located in the Georgia marketing area generally lie within about 300 miles of Atlanta. The normal range of surplus outlets handling milk from the Murfreesboro area, which is outside the Georgia marketing area and where a distributing plant pooled under the Georgia order is located, is somewhat less. Thus, a distance of 350 miles from the nearer of the locations specified should serve to effectively preclude the application of transportation credits on movements of surplus milk associated with the Georgia order that moves within the normal distance of regular surplus dispositions for that market.

The Tennessee Valley order. Surplus milk regularly associated with the Tennessee Valley market is commonly moved to DI's plant at Lewisburg, Tennessee. During December 1982, for example, milk was hauled from Bristol, Virginia, to Lewisburg, Tennessee, which is in excess of 300 miles. Thus, it is appropriate to disallow credits on any shipment of surplus milk that moves to a nonpool plant that is less than 350 miles from the nearer of the locations specified. This distance also is adequate to cover regular outlets for surplus milk associated with DI's plant at London, Kentucky, which is outside the Tennessee Valley marketing area and which at times is regulated under that order.

The Louisville-Lexington-Evansville order. The order for the Louisville market should specify that surplus milk must move more than 250 miles before a transportation credit would be allowed. This distance is sufficient to cover regular surplus milk dispositions from this market to outlets in southern Indiana, and would include such movements from DI's plant at London, Kentucky, which is normally pooled either on the Louisville order or on the Tennessee Valley order.

2. *Omission of a recommended decision and the opportunity to file exceptions thereto.*

The evidence in the record of this proceeding strongly indicates that surplus milk supplies in the affected markets will be substantially larger than usual during March, April, May and June of this year. The amendments adopted herein are in response to these marketing conditions and are for the purpose of accommodating the handling of surplus milk under unusual circumstances. Unless amendatory action is taken on an emergency basis, the opportunity to assure producer equity in these markets will be lost. The normal procedure of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendments in time for them to serve their intended purpose.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Georgia, Middle Atlantic, Tennessee Valley, and Louisville-Lexington-Evansville order were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement [1] regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

January 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid specified marketing areas, is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

List of Subjects in 7 CFR Parts 1007, 1004, 1011, and 1046

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on March 30, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [2] Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas

7 CFR Part and	Marketing Area
1007	Georgia.
1004	Middle Atlantic.
1011	Tennessee Valley.
1046	Louisville-Lexington-Evansville.

[1] Filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings:* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the aforesaid specified marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

PART 1007—MILK IN THE GEORGIA MARKETING AREA

In § 1007.60, paragraph (g) is revised to read as follows:

§ 1007.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed on and after the effective date hereof through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1007.42(b)(3) of § 1007.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: The city hall in Atlanta, Georgia; the city hall in Augusta, Georgia; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the country where the major portion of the milk so diverted was produced. No credit shall apply to the total quanity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

In § 1004.60, paragraph (f) is revised to read as follows:

§ 1004.60 Pool obligation of each pool handler.

* * * * *

(f) With respect to milk marketed on and after the effective date hereof through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1004.42(d) or § 1004.42(e)(3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 200 miles (as determined by the market administrator) from the nearest of the following locations: The city hall in Philadelphia, Pennsylvania; the zero milestone in Washington, D.C.; the city hall in Baltimore, Maryland; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

In § 1011.60, paragraph (g) is revised to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed on and after the effective date hereof through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1011.42(b)(3) or § 1011.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: The city hall in Bristol, Tennessee; the city hall in Knoxville, Tennessee; the city hall in Chattanooga, Tennessee the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

In § 1046.60, paragraph (g) is added to read as follows:

§ 1046.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed on and after the effective date hereof through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1046.42(b)(3) or § 1046.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 250 miles (as determined by the market administrator) from the nearest of the following locations: The city hall in Louisville, Kentucky; the city hall in Lexington, Kentucky; the city hall in Evansville, Indiana; the transferor plant; or, for diversions, the pool plant of last receipt

for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

[FR Doc. 83-8731 Filed 4-4-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1013

[Docket No. AO-286-A30]

Milk in Southeastern Florida Marketing Area; Extension of Time for Filing Exceptions to Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rules.

SUMMARY: This action extends the time for filing exceptions to a recommended decision concerning a proposed amendment to the Southeastern Florida Milk order. the additional time was requested by counsel for Cumberland Farms Food Stores, Inc., a proprietary handler that would be affected by the proposed amendment.

DATE: Exceptions now are due on or before April 8, 1983.

ADDRESS: Exceptions (for copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

Suspension of rule: Issued September 27, 1982; published September 30, 1982 (47 FR 42962).

Partial decision: Issued October 13, 1982; published October 18, 1982 (47 FR 46289).

Order amending the Middle Atlantic order: Issued November 12, 1982; published November 17, 1982 (47 FR 51731).

Recommended Decision: Issued March 10, 1983; published March 15, 1983 (48 FR 10848).

Notice is hereby given that the time for filing exceptions to the March 10, 1983, recommended decision on proposed amendments to the Southeastern Florida milk order is hereby extended to April 8, 1983.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Part 1013

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: March 30, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-8729 Filed 4-4-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Parts 1120, 1126, 1132, and 1138

[Docket Nos. AO-231-A50, et al.]

Milk in Texas and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Parts, Marketing Area, and AO Numbers

1126 Texas, AO-231-A50
1120 Lubbock-Plainview, Texas, AO-328-A24
1132 Texas Panhandle, AO-262-A34
1138 Rio Grande Valley, AO-335-A29

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider proposals submitted by Associated Milk Producers, Inc., two proprietary plant operators, and a trade association. One of the proposals to be considered would merge the Texas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley marketing areas. The merged area also would be expanded to include all of the State of Texas, the State of New Mexico, and Little River and Miller Counties in Arkansas. The Texas order provisions, with some modifications, would be used as the basic regulatory provisions of the merged order. Proponents contend that the changes are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:30 a.m., on April 26, 1983.

ADDRESS: The hearing will be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261, beginning at 9:30 a.m., local time, on April 26, 1983, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid specified marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid specified marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Proposal No. 1, a proposal to combine the Texas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley marketing areas under one order, raises the issue of whether the provisions set forth in that proposal, as possibly modified by other proposals, would tend to effectuate the declared policy of the Act if they are applied to the proposed merged and expanded marketing area, and, if not, what modifications of the proposals would be appropriate.

The proposed merger of orders as specified in Proposal No. 1 also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, and administrative funds accumulated under the Texas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley milk orders.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to insure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small

businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

List of Subjects in 7 CFR Parts 1120, 1126, 1132, and 1138

Milk marketing orders, milk, dairy products.

Proposed by Associated Milk Producers, Inc.:

Proposal No. 1

PART 1126—MILK IN GREAT SOUTHWEST MARKETING AREA

General Provisions

§ 1126.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1126.2 Great Southwest marketing area.

The "Great Southwest marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the following Texas, New Mexico and Colorado counties, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone 1

Counties in Texas

Camp, Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Grayson, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Montague, Morris, Palo Pinto, Parker, Rains, Red River, Rockwall, Somervell, Tarrant, Titus, Upshur, Van Zandt, Wise Wood

Zone 2

Counties in Texas

Bowie, Cass

Counties in Arkansas

Miller, Little River

Zone 3

Counties in Texas

Bell, Bosque, Comanche, Coryell, Erath, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan, Mills, Navarro

Zone 4

Counties in Texas

Anderson, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rusk, Smith

Zone 5

Counties in Texas

Bastrop, Blanco, Burnett, Caldwell, Gillespie, Hays, Lee, Llano, Travis, Williamson

Zone 6

Counties in Texas

Brazos, Burleson, Grimes, Madison, Milam, Robertson, Walker

Zone 7

Counties in Texas

Angelina, Houston, Jasper, Leon, Nacogdoches, Newton, Polk, Sabine, San Augustine, Shelby, Trinity, Tyler

Zone 8

Counties in Texas

Bandera, Bexar, Comal, Fayette, Gonzales, Guadalupe, Kendall, Kerr, Lavaca, Media, Real, Uvalde, Wilson

Zone 9

Counties in Texas

Austin, Brazoria, Chambers, Colorado, Ft. Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Matagorda, Montgomery, Orange, San Jacinto, Waller, Washington, Wharton

Zone 10

Counties in Texas

Aransas, Atascosa, Bee, Calhoun, DeWitt, Dimmit, Frio, Goliad, Jackson, Karnes, La Salle, Live Oak, Maverick, McMullen, Nueces, Refugio, San Patricio, Victoria, Zavala

Zone 11

Counties in Texas

Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Starr, Webb, Willacy, Zapata

Zone 12

Counties in Texas

Archer, Baylor, Clay, Foard, Hardeman, Knox, Wichita, Wilbarger

Zone 13

Counties in Texas

Callahan, Eastland, Fisher, Haskell, Jones, Mitchell, Nolan, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Young

Zone 14

Counties in Texas

Brown, Coke, Coleman, Concho, Crockett, Edwards, Irion, Kimble, Kinney, Mason, McCulloch, Menard, Runnels, San Saba, Schleicher, Sterling, Sutton, Tom Green, Val Verde

Zone 15

Counties in Texas

Armstrong, Carson, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hanford, Harley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Wheeler

Zone 16

Counties in Texas

Bailey, Briscoe, Castro, Childress, Cochran, Cottle, Crosby, Dickens, Floyd, Graza, Hale, Hall, Hockley, Kent, King, Lamb, Lubbock, Lynn, Motley, Parmer, Swisher, Terry, Yoakum

Zone 17

Counties in Texas

Andrews, Borden, Brewster, Crane, Culberson, Dawson, Ector, Gaines, Glasscock, Howard, Jeff Davis, Loving, Martin, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Ward, Winkler

Zone 18

Counties in Texas

Chaves, Curry, DeBaca, Eddy, Lea, Quay, Roosevelt

Zone 19

Counties in New Mexico

Bernalillo, Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Taos, Torrance, Union, Valencia

Counties in Colorado

Archuleta, La Plata, Montezuma

Zone 20

Counties in New Mexico

Catron, Dona Ana, Grant, Hidalgo, Luna, Lincoln, Otero, Sierra, Socorro

Counties in Texas

El Paso, Hudspeth

§ 1126.3 Route Disposition.

Route disposition means any movement of fluid milk products into wholesale and retail marketing channels from the milk processing and packaging facilities, except delivery to a plant. Fluid milk products stored in stationary cold storage vaults at a plant may be considered as inventory items.

§ 1126.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or

packaged. Separate facilities without stationary storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distributing point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1126.5 [Reserved]

§ 1126.6 [Reserved]

§ 1126.7 Pool plant.

Except as provided in paragraph (f) of this section, "pool plant" means:

(a) Any plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant. If two plants operated by the same handler each meet the performance requirement of paragraph (a)(1) of this section and such handler requests that the two plants be considered together for the purpose of meeting the total route disposition requirement, each such plant shall be deemed to have met the total disposition requirement of this subparagraph if the combined route disposition, except filled milk, of such plants is 50 percent or more of the combined receipts of Grade A fluid milk products at such plants, including producer milk diverted from the plants.

(b) Any plant, other than a plant described in paragraph (a) of this section, that is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area and from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section, except that such percentage shall be 15 percent for the months of:

(1) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(2) December, if the plant was a pool plant under this paragraph during the immediataely preceding month of November.

(c) Any plant, other than a plant described in paragraph (a) or (b) of this section or that qualifies as a pool plant under another Federal order, from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section and distributing plants fully regulated under other Federal orders, if the total quantity so transferred to pool plants exceeds in the case of each other order the total quantity so transferred to other order distributing plants, except that:

(1) For the following months, such percentage shall be 15 percent and shall apply only to transfers to pool plants described in paragraph (a) of this section:

(i) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(ii) December, if the plant was a pool plant under this paragraph during the immediately preceding month of November; and

(2) Such plant shall not be a pool plant under this paragraph in any of the months of February through July unless it was a pool plant under this paragraph in three or more of the immediately proeceding months of September through January.

(d) Any plant during the months of February through July, other than a plant described in paragraph (a) of this section, that was a pool plant under pargaraph (b) or (c) of this section during each of the immediately preceding months of September through January and is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area, subject to the following conditions:

(1) For the months of February through July during the first year's operation of this order, the required qualification under paragraph (b) of this section in prior months shall be deemed to have been met if the plant was a pool supply plant under the Texas, Rio Grande Valley, Lubbock-Plainveiw or Texas Panhandle orders (or any combination thereof) during the months of September, October, and November during the prior year; and

(2) If the plant operator files with the market administrator prior to any of the months of February through July a written request for nonpool status, a plant shall not be a pool plant under this paragraph during any of such remaining months through July.

(e) Any plant located in the marketing area that is operated by a cooperative association if pool status under this paragraph is requested for such plant by the cooperative association and 60 percent or more of the producer milk of member of the cooperative association (excluding such milk that is received at or diverted from pool plants described in pargraphs (b), (c) and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b), (c) or (d) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area.

(f) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A government agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirement of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that is such plant subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provision of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but

which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) or (c) of this section which has automatic pooling status under another Federal order.

§ 1126.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a governmental agency plant, or a producer-handler plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is not an other order plant, a governmental agency plant, or a producer-handler plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1126.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant of another handler in accordance with § 1126.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1126.7(f).

§ 1126.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Who does not purchase, lease or use dairy production animals from another producer(s), that is directly or indirectly associated from a managerial or financial standpoint with the person identified in paragraph (a) of this section;

(d) Whose receipts of fluid milk products (including such products which he obtains at a location other than his processing plant for distribution on his routes) during the month from pool plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds;

(e) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production or pool plants; and

(f) Who is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the person identified in paragraph (a) of this section;

(g) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1126.11 [Reserved]

§ 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1126.9(c); or

(3) Diverted from a pool plant in accordance with § 1126.13;

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act, or any person that is involved in the ownership and/or operation of a producer-handler;

(2) A governmental agency that operates a plant exempt pursuant to § 1126.8(e), unless such agency is involved in dairy production research financed by State or Federal governments. In such case milk from such agency that is delivered to pool and nonpool plants (excluding deliveries to an exempt plant described in § 1126.8(e)) as set forth in § 1126.13 shall be producer milk.

(3) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1126.44(a)(8)(iii) and the corresponding step of § 1126.44(b);

(4) Any person with respect to milk produced by him that is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during any of the immediately preceding months of September through November more than one-third of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of Grade A approval or the application of § 1126.13(e) (4) and (5), unless such pool plant was a nonpool plant during any of such immediately preceding months.

§ 1126.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1126.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a poolplant who, in accordance with § 1126.9(c), is the handler for such milk;

(d) Diverted from a pool plant described in § 1126.7(a) for the account of the handler operating such plant to another pool plant, except that milk diverted to a plant operated by a cooperative association may not be milk of the cooperative association's members. Milk so diverted shall be priced at the plant to which diverted; or

(e) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant. If a dairy farmer loses his producer status under this order (except as a result of a temporary loss of Grade A approval), his milk shall not be eligible for diversion until milk of such dairy has been physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed one-third of the producer milk that the cooperative association causes to be delivered during the month to pool plants described in § 1126.7 (a), (b), (c), (d), and (e), and that is physically received thereat.

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (e)(2) of this section. The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) and (3) of this section shall not be producer milk. If the diverting handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler during the month to a nonpool plant shall be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1126.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1126.40(b)(1) from any source other than producers, handlers described in § 1126.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1126.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1126.40(b)(1) for which the handler fails to establish a disposition.

§ 1126.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package, or reconstituted).

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas specially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1126.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1126.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1126.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 1126.19 Current marketing period.

For the purpose of terminating this order under section 608c(16)(B) of the Act, the term "current marketing period" shall mean the first month following the date on which the Secretary publicly announces his finding that the termination of the order is favored by such majority of producers under the order as is prescribed by the Act.

§ 1126.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1126.51(a):

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The

average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Divison, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1126.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1126.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1126.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1126.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of producer milk; and

(2) The utilization or disposition of such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who elects pursuant to § 1126.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

(a) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1126.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundredweight and the net amount paid each dairy farmer.

§ 1126.32 Other reports.

(a) On or before two days prior to the payment dates set forth in § 1126.71 (a) and (b), each handler described in § 1126.9 (a), (b) and (c), except a cooperative association with respect to producer milk for which it elects to collect payments, shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of each month; and during the remainder of each month as further described in paragraphs (a) and (b) of § 1126.71:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 6th day after the end of each month, each handler described in § 1126.9 (a), (b), and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer and its average butterfat content;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and §§ 1126.30 and 1126.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligations under the order.

Classification of Milk

§ 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory located in the permanent storage facilities at the processing plant at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory located in the permanent storage facilities at the processing plant at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

(6) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a)(2) and in shrinkage specified in § 1126.41 (b) and (c).

§ 1126.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid

milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1126.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1126.41 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1126.44(a)(7) or the corresponding step of § 1126.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1126.44(a)(11) or (12) or the corresponding steps of § 1126.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1126.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated

thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferree-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(a) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from poll plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) Transfers by a handler described in § 1126.9(c) to pool plants. Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1126.9(c) to another handler's pool plant shall be classified pursuant to § 1126.44 pro rata with producer milk received at the transferee-handler's plant.

(f) Transfers and diversions to plants located in Mexico. Skim milk and butterfat transferred or diverted in the form of fluid milk or cream products to plants located in Mexico shall be classified as Class I.

§ 1126.43 General classification rules.

In determining the classification of producer milk, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30, make adjustments in reported information based on current audited receipts and utilization information and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1126.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1126.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1126.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1126.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1126.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1126.9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1126.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the

pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1126.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1126.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1126.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II and Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handlers), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and

that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1126.45(a); or

(b)The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handlers, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of the this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1126.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1126.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1126.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1126.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1126.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

Class Prices

§ 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.32.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1126.51(a) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1126.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II

formula prices computed pursuant to § 1126.51(a).

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1126.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1126.51(a) Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1126.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1126.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross value per hundredweight of milk determined pursuant to paragraph (b) of this section is accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1126.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1126.9(c) and which is classified as Class I milk without movement in bulk form to a pool plant described in § 1126.7(a) at which a higher Class I price applies, the price specified in § 1126.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1126.2, the adjdustment shall be as follows:

Zones	Adjustment per hundredweight
1	No adjustment.
2	Minus 9 cents.
3	Plus 23 cents.
4	Plus 8 cents.
5	Plus 43 cents.
6	Plus 38 cents.
7	Plus 33 cents.
8	Plus 58 cents.
9	Plus 68 cents.
10	Plus 78 cents.
11	Plus 83 cents.
12	Minus 12 cents.
13	Plus 13 cents.
14	Plus 23 cents.
15	Minus 7 cents.
16	Plus 3 cents.
17	Plus 8 cents.
18	Minus 27 cents.
19	Minus 12 cents.
20	Minus 17 cents.

(2) For a plant located in the states of Oklahoma, Arizona, Colorado, Kansas, Missouri, Arkansas and Louisiana, the applicable adjustment shall be the amount of difference existing between the Zone 1 price under this order and the Federal order price computed for such plant had such plant been fully regulated by the order nearest to such plant as measured from the plant location to the zero pricing point in the orders applicable in the states listed herein.

(3) For a plant located outside the areas described in paragraphs (a)(1) and (a)(2) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the Dallas, Texas, city hall, such distance to be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1126.44(a)(12) an amount equal to:

(i) 95 percent of the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1126.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-

plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1126.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1126.53 Announcement of class prices

The market administrator shall announce publicy on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1126.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1126.9(c) that were classified in each class pursuant to §§ 1126.43(a) and 1126.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a)(14) and the corresponding step of § 1126.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44(a)(9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7) (v) and (vi) and the corresponding step of § 1126.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(11) and the corresponding step of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract for a handler described in § 1126.9(c) the amount obtained from multiplying the Class III price for the preceding month, as adjusted by the butterfat differential specified in § 1126.74, by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month; and

(h) During the months of March, April, May, June and December, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk, and cheddar cheese by 40 cents per hundredweight.

§ 1126.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month;

(b) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(e) Subtract not more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) The weighted average price shall be the "uniform price" for milk received from producers.

§ 1126.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1126.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit the payments made by handlers pursuant to §§ 1126.71, 1126.76, 1126.77 and 1126.78 and from which he shall make all payments pursuant to §§ 1126.73 (a) through (f) and 1126.77, except that payments to a cooperative association pursuant to § 1126.73(c) shall be offset by any payments due from such cooperative association pursuant to § 1126.71 that have not been received by the market administrator.

§ 1126.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 20th day of each month an amount determined by multiplying the handler's receipts during the first 15 days of such month of producer milk (excluding, in the case of a handler described in § 1126.9(c), producer milk delivered to a pool plant) and milk from a handler described in § 1126.9(c) by the Class III price for the preceding month, less:

(1) Payments made by the handler on or before such date to producers for milk received during the 15-day period; and

(2) Proper deductions authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value (at the Class III price) of the milk received from the producer during the 15-day period.

(b) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 5th of the following month an amount determined by multiplying the handler's receipts (from the 16th day through the end of the month) of producer milk (excluding, in the case of a handler described in § 1126.9(c), producer milk delivered to a pool plant) and milk from a handler described in § 1126.9(c) by the Class III price for the preceding month, less:

(1) Payments made by the handler on or before such date to producers for milk received during such period; and

(2) Proper deductions authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value of the milk received from the producer during such period based on the price set forth in paragraph (b) above.

(c) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 16th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1126.60(a), as adjusted by the butterfat differential specified in § 1126.74, and pursuant to § 1126.60 (b) through (g), less:

(1) Payments made by the handler pursuant to paragraphs (a) and (b) of this section for such month;

(2) Payments, other than those specified in § 1126.73(d), that were made by the handler on or before such date to producers for milk received during such month;

(3) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value of the milk received from the producer during the month; and

(4) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1126.60(f).

(d) The following conditions shall apply with respect to the payments prescribed in paragraphs (a), (b), and (c) of this section:

(1) Payments to the market administrator shall be deemed to have been made by handlers on the date that such payments become spendable funds in the bank account designated by the market administrator and thus available for interbank transfer to handler making payments to producers;

(2) If the date by which payments must be received by the market administrator falls on a Saturday, payments shall be due on the first day prior to such Saturday on which the market administrator's office is open for public business, and if the date by which payments must be received by the market administrator falls on a Sunday or on any Monday that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business; and

(3) Handlers taking credit for authorized deductions from payments otherwise due producers may do so only if such deductions are paid by the handler to assignee by the date(s) payments are due to be made to the producers.

(e) On or before the 25th day after the end of the month, each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (e)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(f) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1126.73(c).

§ 1126.72 [Reserved]

§ 1126.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer within two (2) days after the date set forth in § 1126.71 (a) and (b) for milk for which payment pursuant to § 1126.71 (a) and (b) has been received by the market administrator. Such payment shall be at a rate per hundredweight equal to the Class III price for the preceding month less the amounts specified in subparagraphs (1) and (2) of § 1126.71 (a) and (b).

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 18th day after the end of each month for milk for which payment pursuant to § 1126.71(c) has been received by the market administrator or offset pursuant to § 1126.71(f). Such payment shall be at

the uniform price computed pursuant to § 1126.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1126.74 and 1126.75;

(2) Less the payments described in § 1126.71(c)(2);

(3) Less deductions for marketing services pursuant to § 1126.86;

(4) Less the authorized deductions specified in § 1126.71(c)(3); and

(5) Any adjustments for errors in calculating payments to an individual producer of past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order by three or more days shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(e) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (d) of this section:

(1) If the date by which such payments are to be made falls on a Saturday, payments shall be due on the first day prior to such Saturday on which the market administrator's office is open for public business and if the date by which payment must be made falls on Sunday or a Monday which is a national holiday, such payments need not to be made until the next day that the market administrator's office is open for public business; and

(2) If the application of § 1126.71(d)(2) or paragraph (e)(1) of this section results in a delay in the partial or final payments by handlers to the market administrator or by the market administrator to handlers, the corresponding partial or final payments prescribed in paragraphs (a) through (d) of this section may be delayed by the same number of days.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1126.71, he shall reduce uniformly per hundredweight the payments due producers for their milk received by such handler to a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler. Such payment shall include funds collected on the overdue account pursuant to § 1126.78.

(g) Subject to § 1126.71(d)(1) and (2), each handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall pay the amounts set forth in the following subparagraphs (1) and (2) to the market administrator, who in turn shall transmit such money to the cooperative association. Payments not received in a timely manner pursuant to this section shall be subject to an overdue charge pursuant to § 1126.78, with such collected funds being transmitted on to the cooperative association(s) whose payments have been delayed:

(1) On or before the dates specified in § 1126.71(a) and (b), an amount determined by multiplying such receipts during the first and second half of each month by the Class III price for the preceding month. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1126.74 for the preceding month; and

(2) On or before the 16th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classifed in each class pursuant to § 1126.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1126.74, less any payment made by the handler pursuant to paragraph (g)(1) of this section for such month.

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price computed pursuant to § 1126.61 for the month shall be adjusted by the amounts set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administor for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1126.30(b) and 1126.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distribution plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1126.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk specified in § 1126.71(b)(4), a value of milk determined pursuant to § 1126.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1126.7(b) and the corresponding provision of § 1126.7(d) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30(b) and 1126.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1126.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74 for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1126.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next day for making payment set forth in the provision under which such error occurred. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler.

§ 1126.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.73(g), 1126.76, 1126.77, or 1126.85 shall be increased 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section;

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due;

(c) The amounts collected pursuant to this section shall be credited to the accounts which are overdue.

Administrative Assessment and Marketing Service Deduction

§ 1126.85 Assessment for order administration.

As his pro rata share of the expenses of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1126.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a) (7) and (11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1126.76(a)(2).

§ 1126.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section the market administrator, in making payments to producers pursuant to § 1126.73, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. The monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 18th day after the end of each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each such producer.

Proposed by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers Proposal No. 2

In lieu of §§ 1126.70 through 1126.73, which appear in proposal No. 1, incorporated the following into a "Great Southwest Marketing Order."

§ 1126.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", into which he shall deposit the payments made by handlers pursuant to §§ 1126.71, 1126.76 and 1126.77, and from which he shall make all payments pursuant to §§ 1126.72 and 1126.77, except that payments to a cooperative association pursuant to § 1126.72 shall be offset by any payment due from cooperative association pursuant to § 1126.71 that have not been received by the market administrator.

§ 1126.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (c) of this section, each handler shall pay to the market administrator on or before the 15th day after the end of each month the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1126.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1126.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1126.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1126.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1126.60(f).

(b) Any handler who the market administrator determines was more than three days late in making any payment obligation under Part 1126 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1126.73. Payment shall be made to the market administrator on or before the day prior to the dates specified in § 1126.73 and such payments shall continue until the handler has met all payment obligations for three consecutive months.

(c) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) and (b) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date which payments must be received by the market administrator falls on a Saturday or Sunday or on any Monday that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(d) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to §1126.73(c).

(e) On or before the 25th day after the end of the month, each person who operated another order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (e)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1126.72 Payment from the producer-settlement fund.

(a) On or before the 16th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1126.71(b) the amount, if any, by which the amount computed pursuant to

§ 1126.71(a)(2) exceeds the amount computed pursuant to § 1126.71(a)(1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1126.71(b), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1126.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to meet all payments pursuant to paragraph (a) of this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1126.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1126.71(b) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the 26th day of each month, to each producer who had not discontinued shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price multiplied by the hundredweight of milk received by such producer during the first 15 days of the month, less authorized deductions.

(2) On or before the 18th day of the following month, an amount equal to not less than the appropriate uniform price as adjusted pursuant to §§ 1126.74 and 1126.75 multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producers pursuant to (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1126.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer. Provided, that if by such date such handler has not received full payment for such delivery period pursuant to § 1126.72 he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by those producers for whom it markets milk to collect payments for their milk and which has so requested any handler in writing, such handler other than one specified in § 1126.71(b) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from those producers for whom it markets milk as determined by the market administrator an amount equal to not less than the amount due producers as determined pursuant to paragraph (a) of this section.

(c) In making payments to producer pursuant to paragraph (a) of this section or to a cooperative association pursuant to paragraph (b) of this section, each handler shall furnish such producer or cooperative association with respect to each of the producers for whom it markets milk and from whom the handler received milk during the month, a written statement showing:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds, and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(d) Except as provided in § 1126.71(b) and paragraph (f) of this section, each handler pursuant to § 1126.9(a), who receives milk from a cooperative association as a handler pursuant to § 1226.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 26th day of the month for milk received during the first 15 days of the month, not less than the applicable partial payment rates specified for such month in paragraph (a)(1) of this section; and

(2) On or before the 16th day of the following month for milk received during the month, not less than the uniform price as adjusted pursuant to §§ 1126.74 and 1126.75 less any payments made pursuant to paragraph (a)(1) of this section.

(e) Except as provided in § 1126.71(b), each handler who received bulk fluid milk or bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association;

(1) On or before the 26th day of the month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rates specified for such month in paragraph (a)(1) of this section. If the handler so elects, such price may be adjusted by the butterfat differential specified in § 1126.74 for the preceding month.

(2) On or before the 16th day of the following month, an amount determined by multiplying the quantity of such receipts during the month that was clasified in each class pursuant to § 1126.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1126.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant including the applicable administrative assessment rate.

(f) If the application of § 1126.71(c)(2) results in a delay in payment by the market administrator to handlers, the payments prescribed in paragraphs (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1126.72(b), he shall reduce uniformly per hundredwieght the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received by such handler.

Proposed by Schepps Dairy, Inc.

Proposal No. 3

Amend § 1126.10 of the current Texas order to add a new paragraph (f) as follows:

§ 1126.10 Producer-handler.

* * * * *

(f) Who purchases and sells fluid milk products under his own label only and does not package his farm production in private labels for distribution and sale by another person.

Proposed by Southland Corporation

Proposal No. 4

Revise § 1126.13 of the current Texas order by adding a new paragraph (f) to read as follows:

§ 1126.13 Producer milk.

* * * * *

(f) In a tank truck that is rejected at a plant due to antibiotics and is not physically received at the plant, if the market administrator is notified of such rejection and is given the opportunity to verify the antibiotics. Milk that is rejected pursuant to this paragraph shall be priced at the location of the plant at which rejected. This paragraph shall not apply to the milk of the producer(s) responsible for the antibiotics.

Proposal No.5

Revise § 1126.40(c)(3) and (4) of the current Texas order to read as follows:

§ 1126.40 Classes of utilization.

* * * * *

(c) * * *

(3) In fluid milk products and products specified in paragraph (b)(1) of this section, and producer milk that is rejected because of antibiotics pursuant to § 1126.13(f), that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section, and producer milk that is rejected because of antibiotics pursuant to § 1126.13(f), that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition or rejection;

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 6

Makes such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators, Richard E. Arnold, P.O. Box 45563, Tulsa, Oklahoma 74145, and C. E. Dunham, P.O. Box 29529, Dallas, Texas 75229; or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley Marketing Areas
Office of the Market Administrator, Texas Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on March 30, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-8806 filed 4-4-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

Powers and Duties of Service Officers; Availability of Records; Nonimmigrant Classes; Temporary Alien Employees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the application procedure of extension of stay for temporary workers. It would also allow nonimmigrant temporary workers (H–1 and H–3) to be admitted to the United States for longer periods which are commensurate with the purposes of their admission. Certain employers would also be permitted to file a blanket petition to classify certain classes of their employees as eligible for intra-company transferee visas. These changes will benefit the Service and the public by significantly reducing the number of extensions of stay and petitions which must be filed and processed, and enhance compliance with the Act.

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

ADDRESS: Please submit written comments in duplicate to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Thomas E. Cook, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: This proposed rule would require that when an alien applies for an extension of stay under section 214 (h) or (l) of the Act, the validity of the previously approved visa petition must have been extended. This action would formalize a procedure which already takes place whenever an extension of an H or L applicant is granted. This rule is necessary to clarify the confusion caused by the published precedent decision, *Matter of Dacanay*, 16 I. & N. Dec. 238 (BIA 1977). In *Dacanay*, the BIA ruled that a denial of an I–129B petition filed as an extension request was not appealable. The Service desires to clarify that the denial of an extension of stay request is a separate decision from the extension of the validity of a visa petition. All extension requests made on Form I–539 would continue to be nonappealable. Denial of all Form I–129B's would be appealable. The establishment of separate actions for the visa petition and extension of stay will benefit the public by ending any confusion as to what benefit is being sought, and what appeal rights are available. This rule would require all H's and L's to file separate extension of stay requests on Form I–539. While this would increase the number of these filings, the Service believes that proper enforcement of the regulations requires that individual applicants for extension be examined in the greater detail afforded by the information in Form I–539.

The proposed rule would add provisions to revoke the previous approval of a nonimmigrant visa petition filed on Form I–129B. Current service procedures to review an approved petition require the filing of a motion to reopen by the approving officer (district director) under 8 CFR 103.5. The proposed procedure would allow for two types of revocation proceedings, automatic and on notice. Automatic

revocation of an approved Form I-129B would occur when the petitioner dies, goes out of business, or files written withdrawal of the petition. The revocation on notice procedure would be initiated by the district director by serving a notice of intent to revoke the visa petiton. Upon receipt of this notice, the petitioner could submit evidence in rebuttal to the reasons for the proposed revocation. The district director would consider all evidence submitted in making the decision.

The revocation on notice decision could be appealed to the regional commissioner under Part 103 of this chapter. When the beneficiary of a revoked petition is in the United States, a copy of the revocation would be furnished to the alien and an appropriate period in which to voluntarily depart the United States would be set.

8 CFR 214.2(h) presently limits H-1 and H-3 petitions to a period not to exceed one year, reneable for longer periods. The proposed rule would allow for an initial approval period not to exceed two years for H-1 petitions. The H-3 petition approvals would be granted for the duration of the approved training program.

Experience with the administration of the H-1 and H-3 categories of nonimmigrants has shown that extending the initial approval period would greately benefit the public without causing an adverse impact on compliance. First extension requests filed by the vast majority of aliens of distinguished merit and ability (H-1) are routinely granted. Upon initial approval of a petition for a trainee (H-3), the Service has determined that the stated length of the training program is appropriate; therefore, admitting an H-3 for the length of that approved training program relieves the Service from unnecessary review of extension requests.

The proposed rule would add definitions of three major terms contained in section 101(a)(15)(L) of the Act (8 U.S.C. 1101(15)(L)). Those terms are *managerial capacity, executive capacity,* and *specialized knowledge.* Administration of this section of law during the past twelve years has produced a body of administrative law and practice which the proposed definitions reflect. See *Matter of Raulin,* 13 I. & N. Dec. 654 (RC 1970), *Matter of Michelin Tire,* 17 I. & N. Dec. 248 (BIA 1977), *Matter of Penner,* Interim Decision 2865 (INS 1982), and *Matter of Colley,* Interim Decision 2881 (INS 1981).

8 CFR 214.2(1) now requires a petition to be submitted for each individual who wishes to be classified as an intra-company transferee. The approved petition is then forwarded to an American consulate where the beneficiary applies for an L-1 visa. The proposed rule would provide for a blanket petition procedure which would authorize a petitioner to certify the eligibility of managers and executives for temporary transfer to the United States under section 101(a)(15)(L) of the Act based upon the approval of a single petition (Form I-129B). After initial approval of a petition, all executives or managers whom the petitioner desired to transfer to the United States would be permitted to apply directly to an American embassy or consulate for L-1 visa issuance. A separate visa petition for each individual would not be required. Authority to determine that the individual manager or executive qualifies under the Act and regulations would be vested in the consular officer. The authorization period would be valid for three years with possible extensions. The length of stay for the beneficiary would run concurrently with, but not exceed the validity of, the approved visa petition. This change would only apply to executives and managers under the intra-company transferee classifications, and would not include an alien classified as an intra-company transferee under "specialized knowledge". To qualify, the petitioner would have to produce evidence that he has had at least 10 approved visa petitions during the past year. An alien admitted under the blanket petition could be assigned to any business, subsidiary, or affiliate included in the approval of the original petition.

This rule would also add to section 103.1, paragraph (m)(23), the right to appeal the revocation of approvals of certain petitions, as provided in § 214.2(h) and (l).

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

This rule will not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 103

Administrative practice and procedure.

8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Employment, Organization and functions (Government agencies), Passports and visas.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations would be amended to read as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. Section 103.1 would be amended by adding (m)(23) to read as follows:

§ 103.1 Delegation of authority.

* * * * *

(m)* * *

(23) Decisions revoking approval of certain petitions, as provided in § 214.2.

* * * * *

PART 214—NONIMMIGRANT CLASSES

2. Section 214.2 would be amended by revising (h)(1), (h)(6), (h)(7), (h)(8), and (h)(9); (h)(3a) and (h)(11) would be removed, revised and designated as (h)(14) and (h)(10) respectively; (h)(10) would be redesignated as (h)(11); a new paragraph (h)(12) would be added; and the former (h)(12) would be redesignated as (h)(13).

Paragraph (h) would be revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) *Temporary employees.*—(1) *Petitions.* Any alien defined in section 101(a)(15)(H) of the Act must be the beneficiary of an approved or extended visa petition filed on Form I-129B. The petition must be accompanied by the evidence listed in paragraphs (h)(2), (3), or (4) of this section. The petitioner need not be a United States resident.

(i) *Jurisdiction.* An employer shall file the petition and supporting documents with the district director having administrative jurisdiction over the place in the United States where the beneficiary will perform services or receive training. If the services will be performed or the training will be received in more than one location in the United States, the petition must be filed with a Service office having jurisdiction over at least one of those areas.

(ii) *Multiple beneficiaries.* An employer may include more than one beneficiary in an H petition if the beneficiaries wil be performing the same type of service or receiving the same type of training, applying for visas at the same consulate, and performing services or receiving training in the same Service district.

(iii) *Change in employment or training.* If an alien in the United States desires to perform temporary service or training for another petitioner, the new employer must file a new petition on Form I–129B and the petition must accompany an application of an extension of stay, Form I–539. If the new petition is approved, an extension of stay may be granted for the validity of the approved visa petition.

* * * * *

(3a) [Removed]

* * * * *

(6) *Approval of petition.*—(i) *General.* In adjudicating the petition, the district director shall consider all the evidence submitted, and any other evidence as he may independently require or obtain to assist his adjudication. If all the facts are found to be true and correct, the district director shall notify the petitioner on Form I–171C of the approval of the petition. An approved petition for an alien classified under section 101(a)(15)(H)(i) of the Act is valid for the period of established need for the beneficiary's temporary service but not to exceed two years. An approved petition for an alien classified under section 101(a)(15)(H)(iii) of the Act is valid for the documented length of the approved training program. If a certification by the Secretary of Labor or his designated representative is attached to a petition to accord an alien a classification under section 101(a)(15)(H)(ii) of the Act, the approval of the petition will not be valid beyond the date to which the certification is valid. When the certification does not state a validity period, approval of the petition will not exceed 1 year from the date on which the certification was issued.

(ii) *Spouse and dependents.* The spouse and minor children of the beneficiary are entitled to nonimmigrant H classification if accompanying or following to join the beneficiary in the United States. Neither the spouse nor children may accept employment unless they are the beneficiaries of an approved petition filed in their behalf and have been granted a nonimmigrant classification authorizing their employment.

(7) *Denial of petition.*—(i) *Notice of intent.* If an adverse decision is proposed on the basis of evidence not submitted by the petitioner, the district director shall notify the petitioner of the intent to deny the petition and the basis for the denial. The petitioner may inspect and rebut the evidence and will be granted a period of 10 days from the date of the notice in which to do so. Any rebuttal material will be considered in making a final decision.

(ii) *Notice of denial.* The petitioner will be notified of the decision, the reasons for the denial, and the right to appeal under Part 103 of this chapter. A denial decision by the district director will set forth the pertinent facts adduced from the evidence considered and give the specific reasons for the decision in the light of the facts and relating provisions of section 101(a)(15)(H) of the Act.

(8) *Revocation of approval of petition.*—(i) *Automatic revocation.* The approval of any petition is automatically revoked if the petitioner dies, goes out of business, or files a written withdrawal of the petition. When it comes to the attention of the district director that the approval has been automatically revoked, the district director shall promptly notify the petitioner of the revocation by letter.

(ii) *Revocation on notice.* The approval of a petition may be revoked if the beneficiary is no longer employed by the petitioner in the same capacity as specified in the petition or if the beneficiary is no longer receiving training as specified in the petition. The approval may also be revoked if it is determined that the statement of facts contained in the petition was not true and correct. If the district director finds that any of the above are true, a notice of intent to revoke will be sent to the petitioner. The petitioner may submit evidence in rebuttal within 10 days from the date of the notice. Any rebuttal material will be considered in making the final decision. The petitioner may appeal a revocation on notice to the regional commissioner under Part 103 of this chapter.

(9) *Admission.* A beneficiary may apply for admission to the United States only during the validity period of the petition. The authorized period of the beneficiary's admission will not exceed the date of validity of the petition.

(10) *Extension of stay.* An extension may be authorized in increments of not more than 12 months each under the same terms and conditions that apply to admission. If maintaining status, the beneficiary may apply for an extension for the validity period of the approved visa petition by submitting Form I–539. An application for an extension of stay on behalf of a group of beneficiaries covered by the same original petition must be filed on Form I–539 by each individual alien, but only one Form I–129B for extension of visa petition validity is required. In the case of an extension of stay for an alien ensemble performing as a group, only one Form I–539 is required with an attached list of beneficiaries. A change in the previously authorized employment or training requires the filing of a new petition by the prospective employer or trainer and the filing of an I–539 by the beneficiary. The forms I–539 and I–129B may be filed concurrently. For an alien defined in section 101(a)(15)(H)(ii) of the Act, the application for extension of stay must be accompanied by a labor certification or a notice that the certification cannot be made, and the alien shall not be granted an extension which would result in an unbroken stay in the United States for more than 3 years. An application for an alien athlete or entertainer, admitted under section 101(a)(15)(H)(ii) of the Act to perform services in the United States Virgin Islands, cannot be approved for extension of stay beyond a total of 45 days. There is no appeal from the denial of an alien's request for an extension of stay filed on Form I–539.

(11) *Effect of strike.* (i) A petition to classify an alien as a nonimmigrant as defined in section 101(a)(15)(H) of the Act shall be denied if the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizen or lawful resident workers.

(ii) If a petition has been approved, but the beneficiary has not yet entered the United States to take up the approved employment or training, and the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation and at the place the beneficiary is to be employed or trained, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizen or lawful permanent resident workers, the approval of the petition is automatically suspended and the application for admission on the basis of the petition shall be denied.

(iii) If a petition has been approved, and the beneficiary has entered the United States to take up the employment or training, if the beneficiary is not an "employee" as defined in the National Labor Relations Act (29 U.S.C. 152(3)), and the Secretary of Labor or his designee certifies to the Commissioner of Immigration and Naturalization or his designee that a strike or other labor

dispute involving a work stoppage or workers is in progress in the occupation and place of employment or training, and that the employment or training of the beneficiary would adversely affect the wages and working conditions of U.S. citizens or lawful permanent resident workers, the approval of the petition is automatically suspended.

(iv) If a petition has been approved, and the beneficiary has entered the United States to take up employment, if the beneficiary is an "employee" within the definition of the NLRA, the existence of a strike in the occupation at the place of employment shall result in suspension of the beneficiary's authorization to work, unless the employer establishes to the satisfaction of the Secretary of Labor or his designee, who in turn certifies to the Commissioner of Immigration and Naturalization or his designee, that less than 30 percent of the work force in the occupation at the place of employment are U.S. citizens or lawful permanent resident workers, provided that the Secretary of Labor or his designee also certifies that the strike has been authorized by a majority of such U.S. citizen or lawful permanent resident workers who voted, or a majority of such workers are participating in the strike.

(v) As used in this section, "place of employment" means wherever the employer or a joint employer does business.

(12) *Extension of visa petition validity.* A visa petition extension may be authorized in increments of not more than 12 months each, under the same terms and conditions that applied to the original approval. If there is no change in the previously approved visa petition, an extension may be requested by submitting Form I-129B. Supporting documents are not required unless requested by the Service.

(13) *Special classes.* The services of an entertainer beneficiary shall be restricted to the activity, area, and employer specified in the approved petition. Any engagement not specified in the original petition requires a new petition. A new petition is also required if the entertainer's services are engaged by a new employer or by a new agent or are to be performed in another area, except that a new petition will not be required for the appearance of an alien performer on a bona fide charity show without compensation; provided, the alien is already in the United States under an approved visa petition. A show is not considered a "bona fide charity show" within the meaning of this subparagraph if any of the musicians, entertainers, or other performers receive compensation, including reimbursement for expenses, for their performance. A petition is not required for an appearance, interview, or demonstration, if without remuneration, by any nonimmigrant alien who is not an entertainer by occupation. A separate petition and fee are required for each group of variety entertainers comprising a separate and distinct act.

(14) *Use of Form I-171C.* The Service shall notify the petitioner on Form I-171C whenever a visa petition or an extension of a visa petition is approved under the H classification. The petitioner may furnish the Form I-171C to any one of the beneficiaries who desires to depart from and return to the United States within the period for which the visa petition is valid, but many not duplicate the original form received from the Service; however, additional original forms may be requested. A beneficiary who is required to present a visa for admission and whose visa will have expired before the date of his or her intended return may use Form I-171C, as stated on the form, to apply for a new or revalidated visa. If the beneficiary is exempt from the visa requirement, the beneficiary may present the original Form I-171C at the United States port of entry upon return to be considered for readmission until the expiration date of the validity of the visa petition as shown on Form I-171C.

* * * * *

3. In § 214.2, paragraph (l) would be removed in its entirety and a new § 214.2(l)(1) through (10) added. Paragraph (l) would be revised to read as follows:

(l) *Intra-company transferees.*—(1) *Petition.* Any alien defined in section 101(a)(15)(l) of the Act must be named beneficiary of an approved or extended visa petition filed on Form I-129B, or be assigned to a position identified in an approved blanket petition made on the same form. The petition must be accompanied by the evidence listed in paragraph (l)(1) (iii) of this section. The petitioner need not be a United States resident.

(i) *Jurisdiction.* The prospective employer must file a separate petition for each beneficiary with the district director having jurisdiction over the place in the United States where the beneficiary will perform the services. In the case of a blanket petition, the petition must be filed with the district director having jurisdiction over the employer's main office in the United States. The authority to determine the individual eligibility of beneficiaries covered by blanket petitions under this section is delegated to United States consular officers.

(ii) *Definitions.* As used in this part:

(A) "Managerial capacity" means an assignment within an organization in which the employee directs the organization or a customarily recognized department or subdivision of the organization, controls the work of other employees, has the authority to hire and fire or recommend those actions as well as other personnel actions (promotion, leave authorization, etc.), and exercises discretionary authority over day-to-day operations. This does not include the first-line level of supervision unless the employees supervised are managerial or professional.

(B) "Executive capacity" means an assignment within an organization in which the employee directs the management of an organization and establishes organizational goals and policies, exercise is a wide latitude of discretionary decision-making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business.

(C) "Specialized knowledge" means knowledge possessed by an individual which relates directly to the product or service of an organization or to the equipment, techniques, management, or other proprietary interests of the petitioner not readily available in the job market. The knowledge must be relevant to the organization itself and directly concerned with the expansion of commerce or it must allow the business to become competitive in the market place.

(D) "New office" means an office that has been in operation for less than one year.

(iii) *Evidence.*—(A) *General.* A petitioner seeking to accord an alien classification under section 101(a)(15)(L) of the Act shall attach a statement to the petition describing the capacity in which the beneficiary will be employed in the United States. The documentary evidence must establish that the services currently performed by the beneficiary, and those to be performed in the United States, have been and will be either exeuctive, managerial, or involve specialized knowledge. The statement must satisfy the requirement in paragraph (l)(1)(ii) of this section. If the petition indicates that the beneficiary is coming to open or to be employed in a newly opened office in the United States, the petition must be accompanied by evidence that sufficient physical premises to house the United States operation have been secured by purchase, lease, or rental, and the petitioner has sufficient resources to remunerate the beneficiary. An

individual petition is required in the case of all petititions involving new offices.

(B) *Individual petition.* A petition must be accompanied by evidence of the corporate interrelationship between the foreign company and the United States-based company in order to establish existence of the interrelationship described in section 101(a)(15)(L) of the Act. A statement explaining the temporary need for the beneficiary's services must also accompany the petition. If the beneficiary is an owner, operator, or major stockholder of the company, the petition must be accompanied by evidence that the beneficiary's services are to be used for a temporary period and also include evidence that the beneficiary will be transferred to an assignment outside the United States upon completion of the temporary services in the United States.

(C) *Blanket petitions.* A petitioner may file a blanket petition if it has transferred at least 10 "L" managerial or executive beneficiaries to the United States during the previous 12 months. The petition must be accompanied by evidence that this requirement has been met. The petition must also be accompanied by evidence of the corporate interrelationship of all foreign and domestic entities which the petitioner identifies in the petition and a list of the positions to which its executives or manager may be assigned in the United States. If an organization will identify more than 10 positions, the petitioner may furnish a description of its personnel structure and identify the level above which it will or may seek to transfer managers or executives. Qualified employees who are being transferred into managerial and executive positions identified in the approved blanket petition shall apply directly to an American embassy or consulate for visa issuance without being named in an individual visa petition. A beneficiary of a blanket petition may be admitted as a manager or executive with any organization or division named in the approved visa petition. When the beneficiary of a revoked petition is in the United States, a copy of the revocation shall be furnished to the alien with a date on which to depart the United States.

(2) *Certification of documents by attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 214(c) of the Act and § 214.2(1) of this part may be accepted, without the original, if the copy bears a certification by an attorney, typed or rubber-stamped in the language set forth in § 204.2(h) of this chapter. However, the original document shall be submitted if requested by the Service.

(3) *Approval of petition.*—(i) *General.* The district director shall notify the petitioner on Form I-171C upon approval of a visa petition filed on Form I-129B. An individual petition approved under this paragraph is valid for the period of established need for the beneficiary's temporary services, not to exceed three years. A blanket petition approved under this paragraph is valid for a period of three years from the date of approval of the petition. A blanket petition may be approved in whole or in part. Only those interrelationships found to qualify under seciton 101(a)(15)(l) of the Act shall be approved. A petitioner may utilize the services of a beneficiary in any qualifying executive or managerial position and for any company found qualified in the blanket petition.

(ii) *Spouse and dependents.* The spouse and unmarried minor children of the beneficiary are entitled to the same nonimmigrant classification if accompanying or following to join the beneficiary in the United States. Neither the spouse nor children may accept employment unless they are the beneficiaries of an approved petition filed in their behalf and have been granted a nonimmigrant classification authorizing their employment.

(4) *Denial of petition.*—(i) *General.* A petition denied in whole or in part may be appealed to the regional commissioner under Part 103 of this chapter.

(ii) *Individual petition.* If an individual petition is denied, the petitioner will be notified of the denial, the reasons for the denial, and of the right to appeal on Form I-292.

(iii) *Blanket Petition.* If a blanket petition is denied in whole or in part, the petitioner shall be notified of the decision and the reasons for the denial in part resulting from a finding that some of the claimed inter-company relationships and/or positions do not qualify under section 101 (a) (15) (L) of the Act. The district director shall forward the denial along with Form I-171C. Notice of Approval, when the petition is denied in part. Form I-171C shall list those inter-company relationships and positions which were found to qualify. If the decision of the district director is reversed on appeal, a new Form I-171C shall be furnished to the petitioner to reflect the changes made as a result of the appeal.

(5) *Revocation of approval of petitions.*—(i) *Automatic revocation.* The approval of any petition is automatically revoked if the petitioner dies, goes out of business, files a written withdrawal of the petition, or fails to report any change which would alter qualifying business inter-relationships, or the qualifying executive or managerial duties of the beneficiary.

(ii) *Revocation on notice.* The approval of a petition may be revoked if the ownership and control of the related businesses are altered, and the inter-relationship or employment of the beneficiary no longer qualify under section 101(a(15) (L) of the Act. The petitioner shall notify the Service of any changes in the relationships between authorized companies and any changes to the employment of the beneficiary. If the district director's review of the change finds that the inter-relationship or employment is no longer eligible within the meaning of section 101(a) (15) (L) of the Act, a notice of intent to revoke shall be sent to the petitioner. If an inter-relationship previously approved under a blanket petition is found to no longer qualify, a notice of intent to revoke only that portion of the petition affected by the determination shall be sent to the petitioner. Upon receipt of the notice, the petitioner may submit evidence in rebuttal of the reasons for the proposed revocation. The district director will consider all evidence in making the decision. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised Form I-171C shall be sent to the petitioner with the revocation notice. The petitioner may appeal a revocation on notice to the regional commissioner under Part 103 of this chapter.

(6) *Admission.* A beneficiary may apply for admission to the United States only during the validity period of the petition. The authorized period of the beneficiary's admission shall not exceed the date of validity of the petition.

(7) *Extension of stay.* An alien classified under section 101(a) (15) (L) of the Act shall for an extension of stay on form I-539. The Form I-539 must be accompanied by a statement of continued need signed by an authorized company representative. Extensions of stay may be authorized in increments not to exceed 12 months for a beneficiary of an individual petition and not exceed 36 months for an alien admitted under a blanket petition authorization. No extension will be granted to exceed the validity of the approved petition. The same terms and conditions authorizing the approval of the petition and admission of the beneficiary shall apply. However, an alien admitted under the authority of an

approved blanket petition may be reassigned to any business in a managerial or executive position included in the approval of the blanket petition without referral to the Service. The application for extension of stay for a beneficiary of an approved blanket petition must be filed with the Service office that approved the original visa petition. The spouse and unmarried minor children of an L-1 beneficiary may be included in the extension application and given extensions of stay to the same date as the beneficiary. A new Form I-171C shall be sent to the applicant if the extension is approved. There is no appeal from the denial of an extension of stay. Form I-129B may be filed concurrently for extension of visa petition validity.

(8) *Extension of visa petition validity.* An individual petition may be extended in increments of not more than 12 months each by submitting Form I-129B if all existing conditions in the original approval remain the same. Supporting documents are not required unless requested by the Service. A blanket petition may be extended for an additional three year period by submitting a Form I-129B with the file number of the previously approved petition. Supporting documents are not required if all existing business relationships and authorized positions remain the same. When listed organizations or positions are to be amended, a revised petition must be filed on Form I-129B. Form I171C must list all qualifying inter-company relationships which have qualified under this part.

(9) *Labor disputes.* A petition will be denied if a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the beneficiary is to be employed. If the petition has already been approved, the approval of the beneficiary's employment is automatically suspended while the strike or other labor dispute is in progress.

(10) *Use of Form I-171C.* The Service shall notify the petitioner on Form I-171C upon approval of a visa petition filed on Form I-129B. The Form I-171C will include the name of the beneficiary or, in the case of a blanket petition, will identify the positions and organizations included in the petition. Each alien seeking a visa to occupy a position named in an approved blanket petition must submit a copy of Form I-171C with a letter from the petitioner which identifies: the position and organization from which the employee is transferring, the new organization and position to which the employee is destined, and a description of the employee's actual duties and salary under both the new and former positions. The employer of a beneficiary named in an individual visa petition may request the Service to issue an original Form I-171C to the employee to facilitate entry into the United States for a beneficiary who does not require a nonimmigrant visa. The original Form I-171C may be retained by the beneficiary and presented for entry during the validity of the petition; provided, the beneficiary is entering or reentering the United States to resume the same employment with the same petitioner within the validity period of the petition. However, and L-1 beneficiary admitted under the authorization of blanket petition may be readmitted even though reassigned to a different managerial or executive position or organization named on the Form I-171C. The orginal Form I-171C received from the Service may only be duplicated by employers who have approved blanket petitions; however, additional forms may be requested by individual petitioners.

* * * * *

(Secs. 103, 214, Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1184)

Dated: March 3, 1983.

Gerald R. Riso,

Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 83-8727 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Procedural Regulation Docket 41303; PDR-83]

Procedures for Awarding Japanese Charter Authorizations

March 29, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its transfer and penalty provisions for transfer or nonuse of authorizations for charter flights to Japan. CAB rules now penalize an excessive transfer of "grandfather" authorizations and nonuse of any authorizations in a given year by taking back a number of authorized flights in future years. The proposal would allow carriers to return unused authorizations for the allotment year beginning October 1, 1982, for Board redistribution. "Grandfather" allocations so returned would not be penalized. The proposal is in response to a petition from The Flying Tiger Line, and is intended to allow the maximum use to be made of these limited charter authorizations.

DATES: Comments by April 26, 1983. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: April 12, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESS: Send comments to Docket 41303, Docket Section, Civil Aeronautics Board, Room 714, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: George Wellington, Bureau of International Aviation, 202-673-5878; or Joseph Brooks, Office of the General Counsel, 202-673-5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In this notice of proposed rulemaking, the Board is asking for comment on a proposal to amend the transfer and penalty provisions of its rules allocating charter authorizations to Japan. The proposal would allow those carriers receiving authorizations under the rule to return them unused to the Board without penalty for the allocation year beginning October 1, 1982, and ending September 30, 1983.

Background

By PR-251 (47 FR 43352, October 1, 1982) we adopted 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, which established procedures for allocating among U.S. carriers 300 yearly one-way charter flights to which the United States is entitled under the terms of an interim aviation agreement with Japan. This agreement was first set forth in a June 4, 1982, Record of Consultations and made effective in a September 7, 1982, Memorandum of Understanding. In adopting the rule, we stated that it may be modified should there be undesirable consequences for the public interest.

The rule provides that certificated carriers with a recent history of charter operations in the Japan market receive "grandfather" allocations of a certain number of those 300 charters, based upon the level of their recent operations. The remaining flights are awarded under the rule through a lottery open to all U.S. carriers holding authority in the market and having the operational capability to serve Japan.

The rule imposed a penalty on excessive transfers of grandfather

authorizations. It required carriers that transfer more than ten percent of their "grandfather" authorizations in any year to forfeit one flight in each future year for each flight transferred above the ten-percent threshold. The rule further placed a penalty on the nonuse of authorizations received from any source by requiring a forfeiture in future years of two flights for every one not used ("year" refers to Japan charter allotment periods running from October 1 to September 30). The rule did permit "grandfather" authorizations to be returned without penalty within 2 days of receipt.

On February 23, 1983, The Flying Tiger Line Inc. (FTL) filed a petition for rulemaking in which it requests that we modify Part 320's provisions for transfer of charter authorizations. FTL stated that U.S. carriers have not to date made extensive use of the Japan charter authorizations awarded to them. FTL contended that current economic conditions have lessened the demand for U.S.–Japan passenger charters, and that the transfer and penalty provisions of Part 320 have acted as a disincentive for carriers holding "grandfather" authorizations to transfer them to other carriers. FTL further stated that it believed most carriers holding authorizations, from either the lottery or as a "grandfather" authorization, will not be able to use the majority of them this year, but that there may be other carriers which, if they could obtain the necessary authorizations, might be able to mount a successful charter program to Japan within the six months remaining for this year's authorization.

FTL stated that in order to prevent the waste of a substantial number of first-year authorizations, we should amend Part 320 to provide a "window" period during which carriers holding authorizations may, without incurring penalty, turn in those they do not plan to use. FTL proposed that we then redistribute these authorizations through a lottery or by other means.

FTL also proposed that the rule provide for this return and redistribution process each year (rather than just the first year) that the rule is in effect.

Answers

Answers to FTL's petition have been filed by Arrow Airways and Capitol Air, Airlift International, Transamerica Airlines, and the Department of Transportation. The Board grants DOT's motion to file a late comment.

Arrow and Capitol opposed the petition. They stated that FTL's main purpose is to be relieved of the penalty provisions of Part 320 which, in adopting the rule, we found to be warranted. They further argued that FTL has not shown that its proposal would result in the operation of any additional U.S.–Japan charters, and that the insulation of FTL and other "grandfather" carriers from the penalty provisions, with no countervailing public benefit, is not in the public interest.

Arrow and Capitol stated that the purpose of the penalty on excessive transfers of "grandfather" authorizations is to provide for their general redistribution to other carriers in future years, in recognition of the fact that a carrier transferring large numbers of authorizations will not need its full allocation in later years. The carriers stated that FTL's proposal, if adopted, would eliminate this desirable reallocation process and could result in "grandfather" carriers retaining, in future years, allocations in excess of those needed to maintain the level of their recent operations. Further, the carriers argued that FTL does not claim that its authorizations cannot be transferred, but only that there is a "Disincentive" to do so. In addition, they contended, the FTL proposal shifts the penalties for nonuse from it to others, since it appears under the proposal that the penalty for nonuse after re-distribution would remain in effect.

Arrow and Capitol also stated that if, as FTL asserts, demand for U.S.–Japan charters is less than anticipated and a large number may go unused, we should not make limited changes in the rule, but should re-examine our charter allocation process in its entirety. Finally, the carriers stated that any such re-examination should not take place until final disposition of their and Airlift's petitions for review of the rule now pending in the Court of Appeals for the District of Columbia Circuit. *Arrow Airways, Inc., Capitol Air, Inc. and Airlift International, Inc. v. Civil Aeronautics Board*, D.C. Cir., case nos. 82–2188, 82–2392.

Airlift also urged that we defer action on FTL's petition until final action by the Court of Appeals.

Transamerica supported FTL's proposal, and stated that the problems U.S. carriers have experienced in operating U.S.–Japan charters have been exacerbated by the refusal of Japan to permit the carriage of U.S.- and Japan-originating traffic on the same aircraft.

The Department of Transportation (DOT) generally supported FTL's petition on the condition that CAB data show that Japan charter authorizations are not being used. DOT stated that even though Part 320 imposes penalties for nonuse and gives some flexibility for carriers to turn-back "grandfather" authorizations, the rule was based on the assumption that demand for the authorizations would exceed their supply, and on the intensity of the carriers interest in the market. If this assumption is not correct, DOT believes that the Board should reexamine its allocation system.

Proposal

In adopting the rule, we anticipated that there would be considerable demand for Japan charter authorizations, as evidenced both by the historic levels of charter operations in the U.S.-Japan market as well as by the intense interest expressed by U.S. carriers in the market and in the proposed rule. The carriers receiving grandfather awards also appear to have had the same view—none exercised its right under section 320.11(c) to turn back any "grandfather" authorizations. Further, all the "grandfather" carriers elected to seek additional authorizations in the lottery.

It now appears that our expectation of demand for Japan charter authorizations may have been incorrect, and that the authorizations may have less value than we originally thought, at least for the first year's allotment of charters. Few authorizations have been used to date, as FTL stated. Less than 20 authorizations have been used by U.S. carriers. Further, we have not received notice of the transfer among carriers of any authorizations.

In light of these circumstances, we are concerned that a number of these authorizations may not be used, and believe that we should take additional measures to facilitate the transfer of unwanted authorizations to other carriers that may be able to use them. Our goal in developing these rules has always been to ensure that all of the charter authorizations are used each year.

We are concerned that the present transfer and penalty provisions may have an undesirable side effect. Specifically, they may cause carriers, in an effort to avoid a penalty, to hold unneeded "grandfather" authorizations until late in the year in the hope that they can use them, rather than transfer them to carriers which can use them now. Then, if not able to use them at that time, the carriers could otherwise dispose of them in a way inconsistent with the public interest objectives of the rule. Such an action would undercut the penalty system and may result in a number of these authorizations ultimately going unused at the end of the year if insufficient business materializes.

It therefore appears that our penalty provisions could contribute to Japan charter authorizations being wasted. This was obviously not our intent in adopting the provision. In an effort to correct this potential problem, we are proposing to amend Part 320 to:

(1) Permit carriers holding authorizations to return, for this allocation year, unwanted authorizations to use for reallocation, without penalty, and (2) allow redistribution of these returned authorizations through a lottery for use this year. We propose to make this "turn-back" provision available to both "grandfather" authorizations and any lottery authorizations which carriers believe they cannot use or transfer themselves.

Although the transfer of a lottery authorization does not subject the transferring carrier to a penalty under Part 320, the carrier would be penalized if it allowed an authorization to expire unused at the end of the year. Thus, under our proposal, a carrier foreseeing that it would be unable to use an authorization, and unable to find another carrier to which to transfer that authorization, could avoid penalty by returning it to us in this allotment year. The penalties would remain in effect after this turn-back period. Because the turn-back and government redistribution would occur in the middle of the allotment year, Arrow's and Capitol's concern about a shifting of penalties should be lessened.

This proposal does not guarantee that these reallocated authorizations will be used, as Arrow and Capitol argued. However, if the market is as depressed as FTL and Transamerica allege, we believe that carriers are somewhat more likely to accept and use authorizations that they receive free through a government lottery than they would be if required to search for and purchase or trade for them among their competitors in the open market. We would thus like to have comment on the state of the charter market and the effect on it, as well as the effect on this proposal, of the commingling difficulties stated by Transamerica. If the market is that depressed, even a government allocation may not help in making sure that allocations are used.

We believe that the proposed arrangement would give carriers holding Japan charter authorizations the ability to assess their need for the authorizations they have been allotted, and would facilitate, if any demand exists, the redistribution of authorizations. We are not proposing to prohibit carriers from selling unneeded authorizations if they choose and are able to (and we anticipate that they would do so if the demand for them increases). We believe, however, that this mechanism would give carriers increased flexibility in their efforts to use these authorizations in an effective manner under any conditions of demand for the flights.

We specifically request commenters to give us their views on the need for a government reallocation system. We also request carriers holding Japan charter authorizations to give us their best estimates of the number of flights they might return if we adopt this amendment.

The Board is proposing that this turn-back window be implemented only for this allocation year. The lack of demand for these charters might be a short-term phenomenon. Further, as explained below, the Board will shortly begin a complete re-examination of the Japan charter procedures.

We acknowledge Capitol's and Arrow's and DOT's view that a full-scale re-examination of Part 320's allocation procedures is warranted. The charter agreement with Japan is new, and the procedures set up to implement the granting of Board authority are novel. We believe that this request for a change in our procedures shows a need to reexamine them. The rule provides, in section 320.4(b)(3), for an 18-month review of the operation of the charter procedures. We are proposing to change paragraph (b)(3) to call for a review of the rule *not later than* 18 months from adoption. We intend to begin this review shortly.

As an additional matter, we are not at this time persuaded that we should defer action on this petition pending judicial review of our action adopting Part 320. If the proposed amendment is adopted, we will submit the final rule to the Court for review prior to its effective date.

Method of Redistribution

In PR-251 we stated our preference to rely on market forces to direct, through the transfer mechanism, authorizations to carriers best able to use them and able to pay the best price for them. Here, however, we appear to be faced with a situation where the value of authorizations may be relatively small, and where market forces may not be sufficiently strong to induce reallocation. We have tentatively decided that, in this instance, a lottery represents the most equitable and efficient means of reallocating these authorizations. We are proposing a lottery similar to the one already held under Part 320, open to any carriers meeting the eligibility standards of the rule.

Carriers wishing to return flights would, under our proposal, do so in two-flight (one round-trip) blocks. Carriers bidding for these flights in the lottery would also bid in two-flight blocks, with no maximum bid size. If the number of bids received from interested carriers is less than the number of authorizations available, we propose to dispense with the lottery, award the authorizations to the bidding carriers, and distribute the remainder on a first-come-first-served basis.

We believe that this arrangement, with a minimum of restrictions on the allocation process, would best assure that the flights would be reallocated efficiently. We are interested in carrier comments on this procedure, and on other possible ways of reallocating returned authorizations.

Penalties

We are proposing one change in the penalty provisions of the rule. We would make the "grandfather" penalty applicable only to those flights now subject to a penalty (those exceeding 10 percent of the grandfather allotment), transferred by a carrier outside the proposed reallocation system. We do not agree with Capitol's and Arrow's assertion that this proposal would be contrary to our stated desire that future "grandfather" authorizations be reallocated, through our penalty provisions, if carriers transfer an excessive number of them.

Under the assumptions used in adopting the rule, such as a high demand for authorizations and that a certain number of carriers deserved special recognition of their past efforts in the market, if a carrier transferred a large number of flights it would be due either to a change in that carrier's operational plans (a business decision to reduce its activities in the market) or to that carrier's inability to compete effectively with other carriers operating U.S.-Japan charters. We concluded that under such circumstances, if those carriers sold their "grandfather" authorizations, it would be unfair to give the "grandfather" carriers the same number of charters in later years.

Our proposal here is based on a different premise—that demand for Japan charter authorizations may, at times, be low, such that carriers are not able to use all of them, and that a carrier wishing to transfer authorizations is not in a unique position. Thus, the desire to transfer would not be due to circumstances surrounding a particular carrier, but rather to market forces

affecting all carriers. Further, by returning flights to us under our proposal, the "grandfather" carrier would be foregoing its transfer rights and any ensuing profit from the sale of its authorizations. Under these circumstances, we do not believe that a penalty is warranted.

We are not proposing to modify the penalty for nonuse of authorizations. We believe that with the ability to turn back unwanted authorizations, carriers would have no excuse for allowing authorizations to expire unused at the end of this allocation year. The penalty for nonuse would also apply, under our proposal, to carriers receiving reallocated flights, if they allowed them to expire unused.

Finally, for the reasons explained in setting a shortened comment period, if this rule is adopted, we will act quickly to implement it. Interested carriers should prepare to also act promptly if the rule is made final.

Comment Period

In light of the need to conduct any reallocation promptly, comments on this notice of proposed rulemaking will be due 21 days after publication in the **Federal Register**. The charter authorizations distributed under Part 320 expire on September 30 of each year. Because the peak season for passenger charters is rapidly approaching any rule change of this nature would have to be made quickly so that carriers can plan charter programs and attract passengers if the charter authorizations are to be used. For this reason, the Board finds good cause to conduct this rulemaking on an expedited basis with a 21-day comment period.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of the proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. None of the direct carriers eligible for participation in Part 320 allocations is a small business. Any indirect effect of the proposed change on charter operators, some of which are small businesses, would be marginal.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting and recordkeeping requirements, Treaties.

PROPOSED RULE

PART 320—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, as follows:

1. Section 320.15 would be amended by designating the existing paragraph as (a) and by adding a new paragraph (b) to read:

§ 320.15 Unused charter authorizations.

* * * * *

(b) Notwithstanding paragraph (a) of this section, any carrier may without penalty return to the Board, by a date established by the Board, any of its allocated authorizations that it is unable to use during the allocation year that began on October 1, 1982. The returned authorizations under this paragraph are to be in two-flight (one round-trip) blocks, and will be redistributed under § 320.16.

2. Section 320.16 would be revised to read:

§ 320.16 Secondary lotteries.

(a) Any charter authorizations forfeited will be reallocated by the Board in a secondary lottery under this paragraph.

(1) Secondary lotteries are open to all carriers that meet the eligibility requirements of § 320.12(a), except for carriers that have forfeited one or more flight authorizations under § 320.15(a) and carriers that have transferred more than 10 percent of their grandfather authorizations under § 320.14(c).

(2) The Board will issue an order shortly after the end of each allocation year establishing the number of authorizations available to be reallocated, and the manner in which and when applications will be entertained. These secondary lotteries will be held not later than November 1 of the following allocation year in which one or more charter flight authorizations were forfeited.

(b) Any charter authorizations returned under § 320.15(b) will be reallocated by the Board in a secondary lottery under this paragraph.

(1) Secondary lotteries are open to those carriers meeting the requirements of paragraph (a)(1) of this section.

(2) The Board will issue an order after receiving all authorizations returned under § 320.15(b) stating the number of authorizations available to be reallocated and setting the manner in which applications may be submitted. The secondary lottery under this paragraph will be held on a date set by the Board.

(3) Each application submitted under this paragraph shall contain bids for one or more two-flight (one round-trip) blocks. If the number of bids in applications is less than the number of authorizations available, the authorizations will be given to the bidding carriers without a lottery, and the remaining authorizations will be distributed on a first-come basis as directed by the Board.

3. Paragraph (b)(3) of § 320.4 would be revised to read:

§ 320.4 Charter authorizations.

* * * * *

(b) * * *

(3) The Board will review the procedures provided by this part not later than 18 months after adoption and make changes after notice and opportunity for public comment as necessary.

* * * * *

(Secs. 204, 401, 407, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502)

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

Smith, Member, Concurring and Dissenting:

I originally dissented on this scheme opposing the grandfathering aspects of the program which tended toward compensating incumbent carriers because of new competition in the market regardless of the intended use of the slots and, likewise, opposing the carrier's ability to sell or transfer slots after an initial award which held the prospect of rewarding third parties who offered nothing to the transportation system at the probable expense of the consumer.

However, I do advocate a window as proposed for carriers to return slots to the Board for redistribution without penalty provided the penalty provisions for non-use of slots after the reallocation remains. This should minimize the grandfathering bias and inter-carrier sales and exchanges while redistributing the rights to those more likely to use them.

I agree that the distribution system beyond the first year should be re-examined at this time.

James R. Smith.

[FR Doc. 83-8817 Filed 4-4-83; 8:45 am]

BILLING CODE 6320-01-M

[1] All Members concurred except Member Smith who concurred and dissented and filed the attached concurring and dissenting statement.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

Fees for Registration and Reregistration

AGENCY: Drug Enforcement Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes to adjust its fee schedule for DEA registration. The current fee schedule has been in effect since 1971 and it has been determined that it does not adequately recover the Federal costs involved in the registration and control of manufacturers, distributors, and dispensers of controlled substances.

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

ADDRESS: Comments must be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Joseph Trincellito, Special Assistant to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1172.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act of 1970 (CSA) requires the annual registration of any person who manufactures, distributes, or dispenses a controlled substance. Section 301 of the CSA authorizes the charging of "reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances." The fee schedule under the CSA was established in 1971 and has not changed since then. The following is the current fee schedule as set forth in 21 CFR 1301.11:

Manufacturer	$50
Distributor	25
Importer	25
Exporter	25
Narcotic Treatment Program	5
Researcher	5
Analytical Lab	5
Retail Pharmacy	5
Hospital/Clinic	5
Practitioner	5
Teaching Institution	5

In 1982, the General Accounting Office conducted a review of the annual registration fees charged by DEA. GAO's findings were published in their report entitled, "Comprehensive Approach Needed to Help Control Prescription Drug Abuse," dated October 29, 1982 (GAO/GGD–83–2). It was GAO's finding that DEA's existing fee structure did not adequately recover the costs incurred by the Government. The standards for "user charges" set forth in the Office of Management and Budget (OMB) Circular A–25 are applicable to DEA registration fees. The application of these standards to DEA registration fee schedules clearly indicates that an increase in the fee schedule is appropriate.

GAO's calculations for the year 1980, indicated that a fee schedule of $250 for manufacturers, $125 for distributors and $25 for practitioners would have been appropriate. DEA's current estimates, based on an increase in the number of practitioner registrants since 1980, indicate a similar fee structure is in order but with a slightly lower fee for practitioners.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

§ 1301.11 [Amended]

It is proposed that 21 CFR 1301.11 be amended to reflect the following fee schedule:

Manufacturer	$250
Distributor	125
Importer	125
Exporter	125
Narcotic Treatment Program	20
Researcher	20
Analytical Lab	20
Retail Pharmacy	20
Hospital/Clinic	20
Practitioner	20
Teaching Institution	20

The total economic impact of the proposed fee schedule is not expected to exceed $10 million annually. Accordingly, the Deputy Assistant Administrator for Diversion Control has determined that this proposed rule is "non-major" for purposes of Executive Order 12291.

Pursuant to Executive Order 12291, Sections 3(c)(3) and 3(e)(2)(B), this notice of proposed rulemaking has been reviewed by the Office of Management and Budget.

The vast majority of DEA registrants are considered to be small entities whose interests are to be considered under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, these registrants are predominantly practitioners and pharmacies whose individual registration fees will be increased by $15.00 annually. Accordingly, pursuant to 5 U.S.C. 605(b), the Deputy Assistant Administrator has concluded that the proposed fee increase will have no significant impact upon small entities.

Dated: March 14, 1983.

Gene R. Haislip

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 83-8570 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–77–80]

Tertiary Injectant Expenses; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the allowance of a deduction for tertiary injectant expenses.

DATES: The public hearing will be held on May 17, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by May 3, 1983.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–77–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 193 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, January 14, 1983 (48 FR 1761).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations

should submit not later than May 3, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-8877 Filed 4-4-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 4

[LR-100-78]

Foreign Tax Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the description of income, war profits, and excess profits taxes and taxes in lieu of such taxes imposed by foreign countries and possessions of the United States. These proposed regulations also relate to the amount of these foreign taxes paid or accrued to the foreign country or U.S. possession which, subject to certain limitations, are creditable against U.S. income tax liability. This notice supersedes the notice of proposed rulemaking published on November 17, 1980 (45 FR 75695), but does not supersede temporary regulations published on the same date (45 FR 75647).

DATE: Written comments and requests for a public hearing must be delivered or mailed by June 6, 1983. These amendments are proposed to be effective with respect to taxable years beginning more than 30 days after the date of publication of final regulations by a Treasury decision in the **Federal Register**, except that a taxpayer may elect to apply the regulations to earlier open years.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attn: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations Relating to the Creditability of Foreign Taxes (26 CFR Part 4) under sections 901 and 903 of the Internal Revenue Code of 1954. These amendments would be issued under the authority contained in section 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

A notice of proposed rulemaking and temporary regulations relating to the creditability of foreign taxes were published in the **Federal Register** on November 17, 1980 (45 FR 75695, 75647). Many interested parties commented on that proposal. These comments have been considered and taken into account as appropriate in the preparation of the proposed regulations contained in this document. The temporary regulations published on November 17, 1980, will continue in effect until final regulations become effective.

Discussion

Section 901

Section 1.901-2

Section 901 allows a credit for the amount of income, war profits, or excess profits taxes paid or accrued by or on behalf of a taxpayer to a foreign country or possession of the United States. A foreign levy is a creditable tax only if it is a tax and its predominant character is that of an income tax in the U.S. sense.

A levy is a tax under proposed § 1.901-2(a)(2) if it requires a compulsory payment pursuant to the foreign country's authority to levy taxes. A payment for a specific economic benefit is not a tax. A dual capacity taxpayer (that is, a taxpayer who directly or indirectly receives a specific economic benefit from a foreign government must establish under proposed § 1.901-2A the portion, if any, of its payment to the foreign government that is a payment of tax. This rule for dual capacity taxpayers varies from the rule in the current temporary regulations.

Under the proposed regulations the predominant character of a foreign tax is that of an income tax in the U.S. sense if the foreign tax is likely to reach net gain in the normal circumstances in which it applies. This standard, set forth in proposed § 1.901-2(a)(3)(i), adopts the criterion for creditability enunciated by the Court of Claims in *Inland Steel Company* v. *U.S.*, 677 F.2d 72 (Ct. Cl. 1982), *Bank of America National Trust and Savings Association* v. *U.S.*, 459 F. 2d 513 (Ct. Cl. 1972), and *Bank of America National Trust and Savings Association* v. *Commissioner*, 61 T.C. 752 (1974). The proposed regulations set forth three tests for determining if a foreign tax is likely to reach net gain: the realization test, the gross receipts test, and the net income test. All of these tests must be met for the predominant character of the foreign tax to be that of an income tax in the U.S. sense.

Paragraph (b) (2) states that the realization test is met if the predominant character of the foreign tax is that of a tax imposed on income at the time or after the time income would be realized under the Internal Revenue Code. This test can also be satisfied if the foreign tax is imposed on the appreciation in value of certain assets or on the value of certain inventory property at the time of transfer, processing, or export, but only if such amounts are not subject to foreign tax at a later time. Certain foreign taxes imposed on the actual or deemed distribution of profits also satisfy the realization test.

The gross receipts test set forth in paragraph (b) (3) is satisfied if the predominant character of the foreign tax is that of a tax imposed on the basis of gross receipts. The proposed regulations allow a tax imposed on a base of estimated gross receipts or on a base of gross receipts that would have resulted from an arm's length transaction to meet this standard in certain cases.

The third test of the proposed regulations is whether the predominant character of the foreign tax is that of a tax on net income. Paragraph (b) (4) states that a tax imposed on a base of gross receipts reduced by significant costs and expenses (including capital expenditures) attributable to that income is a tax on net income. Certain formulary methods of computing taxable income satisfy this test. A foreign tax may be considered to be imposed on net income even if no deductions are allowed in those few cases where the income is of a type (such as wages) that generally does not have significant related expenses.

Even though a foreign tax satisfies these three tests, the predominant

character of the tax is not that of an income tax in the U.S. sense to the extent the foreign tax liability is dependent on the availability of a credit against the taxpayer's liability to another country. This rule is contained in paragraphs (a) (3) (ii) and (c).

Under the proposed regulations, the tests described above are applied to each separate foreign levy. Paragraph (d) provides that a levy consists of separate levies if it is imposed on a base that differs in kind, and not merely in degree, for different classes of persons subject to the levy. Taxes imposed by different levels of a government are always separate levies. A tax imposed under foreign law as modified by a contract is a separate tax imposed on those persons subject to the contractual modification. Special rules with respect to levies imposed on dual capacity taxpayers are found in § 1.901–2A(a).

Amounts of foreign income, war profits, or excess profits taxes that are creditable must be paid or accrued to the foreign country by or on behalf of the taxpayer. Paragraph (e) contains rules with respect to the amount of a qualifying tax that is creditable, subject to limitations such as those contained in section 904. Amounts of tax paid or accrued to a foreign country do not include amounts that are (1) reasonably likely to be refunded, credited, rebated, abated or forgiven, or (2) used directly or indirectly as a subsidy to the taxpayer, or (3) not compulsory payments. To the extent a taxpayer does not make reasonable efforts to minimize its foreign tax liability over time, the payment is not compulsory and is therefore not an amount of tax paid. A taxpayer is not required to change the form of a transaction in order to minimize its foreign tax liability.

Paragraph (e) also provides rules with respect to multiple charges. If the initial amount of one foreign liability is reduced by the amount of another levy, the amount of the first liability that is paid or accrued is the excess of the initial liability over the other levy. This is the rule of *Helvering* v. *Queen Insurance Co.*, 115 F. 2d 341 (2d Cir. 1940), *cert. den.* 312 U.S. 706 (1941). The amount of the other levy that is paid or accrued is not reduced due to its use as an offset. This rule differs from the rule in the current temporary regulations relating to income taxes used to offset other charges. If the taxpayer's liability is the greater or lesser of two amounts, the taxpayer is considered to pay or accrue only the levy for which he is liable for that period. Thus, if the taxpayer is liable for the greater of an income tax or an excise tax and for one period the income tax liability is larger, the taxpayer is considered to be liable only for the income tax, and not for the excise tax, for that period.

The proposed regulations would delete the rule of the temporary regulations regarding the accrual of contested foreign taxes, so that Revenue Rulings 58–55, 1958–1 C.B. 266; 70–290, 1970–1 C.B. 160; and 77–487, 1977–2 C.B. 479, would continue to state the position of the Internal Revenue Service on this issue. The rules of the temporary regulations involving advance corporate taxes would also be deleted because they apply to only one type of integrated tax system. The proposed regulations reserve a paragraph to contain more general rules for the treatment of taxes under integrated tax systems.

Paragraph (f) contains the general rule that a foreign income tax can be paid or accrued only by or on behalf of a taxpayer who is liable for the amount under foreign law. In addition, paragraph (f) contains specific rules with respect to (1) a contractual agreement under which the income tax liability of the taxpayer is paid by another person, and (2) joint and several liability for income tax.

Paragraph (g) contains definitions of the terms "paid," "foreign country," and "foreign levy" for purposes of §§ 1.901–2, 1.901–2A, and 1–903.1.

Paragraph (h) contains the effective date provision for proposed §§ 1.901–2, 1.901–2A, and 1.903–1. Generally, the proposed regulations will be effective for taxable years beginning more than 30 days after publication of final regulations. However, taxpayers may elect to have the final regulations apply to any open taxable year on a country-by-country basis. If the election is made with respect to one country, it applies to all levies imposed by the country and any of its political subdivisions for the year for which the election is made and all subsequent years. The election cannot be revoked.

Section 1.901–2A

Under proposed § 1.901–2(a)(2)(i), a payment to a foreign government in exchange for a specific economic benefit is not a tax. Therefore, taxpayers who receive a specific economic benefit (dual capacity taxpayers) must establish the portion (if any) of their payment to the foreign government that is tax. Rules for meeting this burden of proof are contained in § 1.901–2A.

Under paragraph (a)(1) of § 1.901–2A, a dual capacity taxpayer is subject to the same levy as taxpayers not receiving a specific economic benefit only if the levy is applied, by its terms and in practice, in the same manner to dual capacity taxpayers and to other taxpayers. If a single levy is imposed on both dual capacity taxpayers and other taxpayers, no portion of the payments by a dual capacity taxpayer is considered to be compensation for a specific economic benefit.

Paragraph (b)(2) confirms that a dual capacity taxpayer entitled to the benefits of a tax treaty to which the United States is a party and which provides for the creditability of a foreign tax for U.S. tax purposes, may choose the benefits of the treaty, subject to any terms, conditions, and limitations contained in the treaty.

Paragraph (c) sets forth the two methods available for dual capacity taxpayers (other than those subject to the same levy as other taxpayers and those claiming credit under a treaty) to establish the portion of a levy that is tax and not compensation for a specific economic benefit. The first method is to establish by all of the relevant facts and circumstances, the portion, if any, of the levy that is not paid in exchange for a specific economic benefit. Neither the methodology of the elective safe harbor method described below nor the results that would have obtained if the safe harbor method had been elected may be taken into account as a relevant fact or circumstance under this facts and circumstances method.

The second method, the elective safe harbor method, is described in paragraph (c)(3). A dual capacity taxpayer may elect to use this method in accordance with paragraph (d) on a country-by-country basis. A taxpayer who elects the safe harbor method applies the formula set forth in paragraph (e). The formula is intended to provide a credit under section 901 or 903 for an amount approximating the amount of generally imposed income tax that would have been paid if the taxpayer had not been a dual capacity taxpayer and if the amount considered to be paid for the specific economic benefit had been deductible in determining the foreign income tax liability. An election to use the safe harbor method for a country is effective for the taxable year for which it is made and all subsequent years unless revoked with the consent of the Commissioner of Internal Revenue. The making of a safe harbor election constitutes a waiver of the right to use the facts and circumstances method with respect to any levy imposed by the countries covered by the election.

If a payment by a dual capacity taxpayer to the foreign country is determined to have two elements—an amount that is income tax or tax in lieu

of income tax and an amount that is paid in exchange for a specific economic benefit—the amount paid in exchange for the specific economic benefit is characterized (as royalty, purchase price, etc.) according to the nature of the transaction, and that characterization applies for all purposes of Chapter 1 of the Code, except for sections 611 and 613.

Section 903

Section 903 provides that the credit granted by section 901 shall also be available for a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by a foreign country or U.S. possession. The proposed regulations under section 903 describe these taxes. The proposed rules under section 901 for determining the amount of tax paid or accrued by or on behalf of a taxpayer also apply to section 903 taxes.

To qualify as a tax in lieu of a tax on income, war profits, or excess profits, a levy must satisfy the definition of a tax in proposed § 1.901–2 (a)(2). The tax must also be in substitution for, and not in addition to, a generally imposed income tax. To the extend that the amount of the foreign tax liability is contingent upon the availability of a credit against the amount of income tax owed to another country, a tax is not in substitution for an otherwise generally imposed income tax. The comparability requirement in temporary regulation § 4.903–1(c) is not contained in these proposed regulations.

Creditability under § 1.903–1 is not dependent on administrative difficulty in applying the generally imposed income tax. The base of the tax need not bear any relation to realized net income; a section 903 tax may be imposed on gross receipts, gross income or a base tht bears no resemblance to income. A taxpayer may be entitled to credit under section 903 for a tax with respect to certain of its activities, even though the taxpayer is also subject to a generally imposed income tax on its income from other activities. As under section 901, each separate levy is evaluated in its entirety for all persons subject to the tax, and the rules of § 1.901–2A apply to dual capacity taxpayers.

Withdrawal of Notice of Proposed Rulemaking

The notice of proposed rulemaking relating to sections 901 and 903 published in the **Federal Register** (45 FR 75695) on November 17 1980, is hereby withdrawn. The temporary regulations published in the **Federal Register** (45 FR 75647) on November 17, 1980, continue in effect until final regulations take effect.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commission of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comment procedural requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these proposed regulations is Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury department participated in developing these regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

26 CFR Part 4

Income taxes, United States investments abroad, Foreign tax credit.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 4 are as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. A new § 1.901–2 is added immediately after § 1.901–1 to read as follows:

§ 1.901–2 Income, war profits, or excess profits tax paid or accrued.

(a) *Definition of income, war profits, or excess profits tax.*—(1) *In general.* Section 901 allows a credit for the amount of income, war profits or excess profits tax (referred to as "income tax" for purposes of this section and §§ 1.901–2A and 1.903–1) paid to any foreign country. Whether a foreign levy is an income tax is determined independently for each separate foreign levy. A foreign levy is an income tax if and only if—

(i) It is a tax; and

(ii) The predominant character of that tax is that of an income tax in the U.S. sense.

Except to the extent otherwise provided in paragraphs (a)(3)(ii) and (c) of this section, a tax either is or is not an income tax, in its entirety, for all persons subject to the tax. Paragraphs (a), (b) and (c) of this section define an income tax for purposes of section 901. Paragraph (d) of this section contains rules describing what constitutes a separate foreign levy. Paragraph (e) of this section contains rules for determining the amount of tax paid by a person. Paragraph (f) of this section contains rules for determining by whom foreign tax is paid. Paragraph (g) of this section contains definitions of the terms "paid by," "foreign country," and "foreign levy." Paragraph (h) of this section states the effective date of this section.

(2) *Tax.*—(i) *In general.* A foreign levy is a tax if it requires a compulsory payment pursuant to the authority of a foreign country to levy taxes. A penalty, fine, interest, or similar obligation is not a tax, nor is a customs duty a tax. Whether a foreign levy requires a compulsory payment pursuant to a foreign country's authority to levy taxes is determined by principles of U.S. law and not by principles of law of the foreign country. Therefore, the assertion by a foreign country that a levy is pursuant to the foreign country's authority to levy taxes is not determinative that, under U.S. principles, it is pursuant thereto. Notwithstanding any assertion of a foreign country to the contrary, a foreign levy is not pursuant to a foreign country's authority to levy taxes, and thus is not a tax, to the extent a person subject to the levy receives (or will

receive), directly or indirectly, a specific economic benefit (as defined in paragraph (a)(2)(ii)(B) of this section) from the foreign country in exchange for payment pursuant to the levy. Rather, to that extent, such levy requires a compulsory payment in exchange for such specific economic benefit. If, applying U.S. principles, a foreign levy requires a compulsory payment pursuant to the authority of a foreign country to levy taxes and also requires a compulsory payment in exchange for a specific economic benefit, the levy is considered to have two distinct elements: a tax and a requirement of compulsory payment in exchange for such specific economic benefit. In such a situation, these two distinct elements of the foreign levy (and the amount paid pursuant to each such element) must be separated. No credit is allowable for a payment pursuant to a foreign levy by a dual capacity taxpayer (as defined in paragraph (a)(2)(ii)(A) of this section) unless the person claiming such credit establishes the amount that is paid pursuant to the distinct element of the foreign levy that is a tax. See paragraph (a)(2)(ii) of this section and § 1.901–2A.

(ii) *Dual capacity taxpayers.*—(A) *In general.* For purposes of this section and §§ 1.901–2A and 1.903–1, a person who is subject to a levy of a foreign state or of a possession of the United States or of a political subdivision of such a state or possession and who also, directly or indirectly (within the meaning of paragraph (a)(2)(ii)(E) of this section) receives (or will receive) a specific economic benefit from the state or possession or from a political subdivision of such state or possession or from an agency or instrumentality of any of the foregoing is referred to as a "dual capacity taxpayer." Dual capacity taxpayers are subject to the special rules of § 1.901–2A.

(B) *Specific economic benefit.* For purposes of this section and §§ 1.901–A and 1.903–1, the term "specific economic benefit" means an economic benefit that is not made available on substantially the same terms to substantially all persons who are subject to the income tax that is generally imposed by the foreign country, or, if there is no such generally imposed income tax, an economic benefit that is not made available on substantially the same terms to the population of the country in general. Thus, a concession to extract government-owned petroleum is a specific economic benefit, but the right to travel or to ship freight on a government-owned airline is not, because the latter, but not the former, is made generally available on substantially the same terms. An economic benefit includes property; a service; a fee or other payment; a right to use, acquire or extract resources, patents or other property that a foreign country owns or controls (within the meaning of paragraph (a)(2)(ii)(D) of this section); or a reduction or discharge of a contractual obligation. It does not include the right or privilege merely to engage in business generally or to engage in business in a particular form.

(C) *Pension, unemployment, and disability fund payments.* A foreign levy imposed on individuals to finance retirement, old-age, death, survivor, unemployment, illness, or disability benefits, or for some substantially sumilar purpose, is not a requirement of compulsory payment in exchange for a specific economic benefit, as long as the amounts required to be paid by the individuals subject to the levy are not computed on a basis reflecting the respective ages, life expectancies or similar characteristics of such individuals.

(D) *Control of property.* A foreign country controls property that it does not own if the country exhibits substantial indicia of ownership with respect to the property, for example, by both regulating the quantity of property that may be extracted and establishing the minimum price at which it may be disposed of.

(E) *Indirect receipt of a benefit.* A person is considered to receive a specific economic benefit indirectly if another person receives a specific economic benefit and that other person—

(*1*) Owns or controls, directly or indirectly, the first person or is owned or controlled, directly or indirectly, by the first person or by the same persons that own or control, directly or indirectly, the first person; or

(*2*) Engages in a transaction with the first person under terms and conditions such that the first person receives, directly or indirectly, all or part of the value of the specific economic benefit.

(3) *Predominant character.* The predominant character of a foreign tax is that of an income tax in the U.S. sense—

(i) If, within the meaning of paragraph (b)(1) of this section, the foreign tax is likely to reach net gain in the normal circumstances in which it applies,

(ii) But only to the extent that liability for the tax is not dependent, within the meaning of paragraph (c) of this section, by its terms or otherwise, on the availability of a credit for the tax against income tax liability to another country.

(b) *Net gain.*—(1) *In general.* A foreign tax is likely to reach net gain in the normal circumstances in which it applies if and only if the tax, judged on the basis of its predominant character, satisfies each of the realization, gross receipts, and net income requirements set forth in paragraphs (b)(2), (b)(3) and (b)(4), respectively, of this section.

(2) *Realizaton.*—(i) *In general.* A foreign tax satisfies the realization requirement if, judged on the basis of its predominant character, it is imposed—

(A) Upon or subsequent to the occurance of events ("realization events") that would result in the realization of income under the income tax provisions of the Internal Revenue Code, or

(B) Upon the occurrence of an event prior to a realization event (a "prerealization event"), but only if the foreign country does not, upon the occurrence of a later event (other than a distribution or a deemed distribution of the income), impose tax with respect to the income on which tax is imposed by reason of such prerealization event, and—

(*1*) The impostion of the tax upon such prerealization event is based on the difference in the values of stock, securities or readily marketable property (as defined in paragraph (b)(2)(iii) of this section) at the beginning and end of a taxable period; or

(*2*) The prerealization event is the physical transfer, processing, or export of readily marketable property.

A foreign tax that, judged on the basis of its predominant character, is imposed upon the occurrence of events described in this paragraph (b)(2)(i) satisfies the realization requirement even if it is also imposed in some situations upon the occurrence of events not described in this paragraph (b)(2)(i). For example, a foreign tax that, judged on the basis of its predominant character, is imposed upon the occurrence of events described in this paragraph (b)(2)(i) satisfies the realization requirement even though the base of that tax also includes imputed rental income from a personal residence used by the owner and receipt of stock dividends of a type described in section 305(a) of the Internal Revenue Code. However, a foreign tax based only or predominantly on such imputed rental income or only or predominantly on receipt of such stock dividends does not satisfy the realization requirement.

(ii) *Certain distributions and deemed distributions.* A foreign charge meets the realization requirement if it is imposed, but only once, with respect to a distribution or deemed distribution of amounts that meet the realization

requirement in the hands of the person that, under foreign law, distributes or is deemed to distribute such amounts.

(iii) *Readily marketable property.* Property is readily marketable if—

(A) It is stock in trade or other property of a kind that properly would be included in inventory if on hand at the close of the taxable year or if it is held primarily for sale to customers in the ordinary course of business, and

(B) It can be sold on the open market without further processing or it is exported from the foreign country.

(iv) *Examples.* The provisions of paragraph (b)(2) of this section may be illustrated by the following examples:

Example (1). Residents of country X are subject to a tax of 10 percent on the aggregate net appreciation in fair market value during the calendar year of all shares of stock held by them at the end of the year. In addition, all such residents are subject to a country X tax that qualifies as an income tax within the meaning of paragraph (a)(1) of this section. Included in the base of the income tax are gains and losses realized on the sale of stock, and the basis of stock for purposes of determining such gain or loss is its cost. The operation of the stock appreciation tax and the income tax as applied to sales of stock is exemplified as follows: *A*, a resident of country X, purchases stock in June, 1983 for 100u (units of country X currency) and sells it im May , 1985 for 160u. On December 31, 1983, the stock is worth 120u and on December 31, 1984, it is worth 155u. Pursuant to the stock appreciation tax, *A* pays 2u for 1983 (10 percent of (120u−100u)), 3.5u for 1984 (10 percent of (155u−120u)), and nothing in 1985 because no stock was held at the end of that year. For purposes of the income tax, *A*, must include 60u (160u−100u) in his income for 1985, the year of sale. Pursuant to paragraph (b)(2)(i)(B) of this section, the stock appreciation tax does not satisfy the realization requirment because country X imposes a tax upon the occurrence of a later event (*i.e.*, the sale of stock) with respect to the income that was taxed by the stock appreciation tax.

Example (2). The facts are the same as in example (1) except that if stock was held on the December 31 last preceding the date of its sale, the basis of such stock for purposes of computing gain or loss under the income tax is the value of the stock on such December 31. Thus, in 1985, *A* includes only 5u (160u−155u) as income from the sale for purposes of the income tax. Because the income tax imposed upon the occurrence of a later event (the sale) does not impose a tax with respect to the income that was taxed by the stock appreciation tax, the stock appreciation tax satisfies the realization rqeuirement.

Example (3). Country X imposes a tax on the realized net income of corporations that do business in country X. Country X also imposes a branch profits tax on corporations organized under the law of a country other then country X that do business in country X. The branch profits tax is imposed when realized net income is remitted by branches in country X to home offices outside of country X. In accordance with paragraph (b)(2)(ii)of this section, the branch profits tax meets the realization requirement.

(3) *Gross receipts.*—(i) *In general.* A foreign tax satisfies the gross receipts requirement if, judged on the basis of its predominant character, it is imposed on the basis of—

(A) Gross receipts; or

(B) Gross receipts computed under a method that is likely to produce an amount that is not greater than fair market value, in the case of—

(*1*) Transactions with respect to which it is reasonable to believe that gross receipts may not otherwise be clearly reflected, such as transactions between related parties; or

(*2*) Situations to which paragraph (b)(2)(i)(B) or, in the case of a deemed distribution, paragraph (b)(2)(ii) of this section applies.

A foreign tax that, judged on the basis of its predominant character, is imposed on the basis of amounts described in this paragraph (b)(3)(i) satisifies the gross receipts requirement even if it is also imposed on the basis of some amounts not described in this paragraph (b)(3)(i).

(ii) *Examples.* The provisions of paragraph (b)(3)(i) of this section may be illustrated by the following examples:

Example (1). Country X imposes a "headquarters company tax" on country X corporations that serve as regional headquarters for affiliated nonresident corporations, and this tax is a separate tax within the meaning of paragraph (d) of this section. A headquarters company for purposes of this tax is a corporation that performs administrative, management or coordination functions solely for nonresident affiliated entities. Due to the difficulty of determining on a case-by-case basis the arm's length gross receipts that headquarters companies would charge affiliates for such services, gross receipts of a headquarters company are deemed, for purposes of this tax, to equal 110 percent of the business expenses incurred by the headquarters company. It is established that this formula is likely to produce an amount that is not greater than the fair market value of arm's length gross receipts from such transactions with affiliates. Pursuant to paragraph (b)(3)(i)(B)(*1*) of this section, the headquarters company tax satisfies the gross receipts requirement.

Example (2). County X imposes a separate tax (within the meaning of paragraph (d) of this section) on income from the extraction of petroleum. Under that tax, gross receipts from extraction income are deemed to equal 105 percent of the fair market value of petroleum extracted. This computation is not designed to produce an amount that is not greater than the fair market value of actual gross receipts; therefore, the tax on extraction income does not satisfy the gross receipts requirement. However, if the tax satisfies the criteria of § 1.903–1(a), it is a tax in lieu of an income tax.

(4) *Net income.*—(i) *In general.* A foreign tax satisfies the net income requirement if, judged on the basis of its predominant character, the base of the tax is computed by reducing gross receipts (including gross receipts as computed under paragraph (b)(3)(i)(B) of this section) to permit—

(A) Recovery of the significant costs and expenses (including significant capital expenditures) attributable, under reasonable principles, to such gross receipts; or

(B) Recovery of such significant costs and expenses computed under a method that is likely to produce an amount that approximates, or is greater than, recovery of such significant costs and expenses.

A foreign tax law permits recovery of significant costs and expenses even if such costs and expenses are recovered at a different time than they would be if the Internal Revenue Code applied, unless the time of recovery is such that under the circumstances there is effectively a denial of such recovery. For example, unless the time of recovery is such that under the circumstances there is effectively a denial of such recovery, the net income requirement is satisfied where items deductible under the Internal Revenue Code are capitalized under the foreign tax system and recovered either on a recurring basis over time or upon the occurrence of some future event or where the recovery of items capitalized under the Internal Revenue Code occurs less rapidly under the foreign tax system. A foreign tax law that does not permit recovery of one or more significant costs or expenses, but that provides allowances that effectively compensate for nonrecovery of such significant costs or expenses, is considered to permit recovery of such costs or expenses. Principles used in the foreign tax law to attribute costs and expenses to gross receipts may be reasonable even if they differ from principles that apply under the Internal Revenue Code (*e.g.*, principles that apply under section 265, 465 or 861(b) of the Internal Revenue Code). A foreign tax whose base, judged on the basis of its predominant character, is computed by reducing gross receipts by items described in paragraph (b)(4)(i) (A) or (B) of this section satisfies the net income requirement even if gross receipts are not reduced by some such items. A foreign tax whose base is gross receipts or gross income does not satisfy the net income requirement except in the rate situation where that tax is almost certain to reach some net gain in the normal circumstances in which it applies because costs and expenses will

almost never be so high as to offset gross receipts or gross income, respectively, and the rate of the tax is such that after the tax is paid persons subject to the tax are almost certain to have net gain. Thus, a tax on the gross receipts or gross income of businesses can satisfy the net income requirement only if businesses subject to the tax are almost certain never to incur a loss (after payment of the tax).

(ii) *Consolidation of profits and losses.* In determining whether a foreign tax satisfies the net income requirement, one of the factors to be taken into account is whether, in computing the base of the tax, a loss incurred in one activity in a trade or business is allowed to offset profit earned by the same person in another activity in the same trade or business. If such an offset is allowed, it is immaterial whether the offset may be made in the taxable period in which the loss is incurred or only in a different taxable period, unless the period is such that under the circumstances there is effectively a denial of the ability to offset the loss against profit. In determining whether a foreign tax satisfies the net income requirement, it is immaterial that no such offset is allowed if a loss incurred in one such activity may be applied to offset profit earned in that activity in a different taxable period, unless the period is such that under the circumstances there is effectively a denial of the ability to offset such loss against profit. In determining whether a foreign tax satisfies the net income requirement, it is immaterial whether a person's profits and losses from one trade or business are allowed to offset its profits and losses from another trade or business, or whether a person's business profits and losses and its passive investment profits and losses are allowed to offset each other in computing the base of the foreign tax. Moreover, it is immaterial whether foreign law permits or prohibits consolidation of profits and losses of related persons, unless foreign law requires separate entities to be used to carry on separate activities in the same trade or business. If foreign law requires that separate entities carry on such separate activities, the determination whether the net income requirement is satisfied is made by applying the same considerations as if such separate activities were carried on by a single entity.

(iii) *Carryovers.* In determining whether a foreign tax satisfies the net income requirement, it is immaterial, except as otherwise provided in paragraph (b)(4)(ii) of this section, whether losses incurred during one taxable period may be carried over to offset profits incurred in different taxable periods.

(iv) *Examples.* The provisions of this paragraph (b)(4) may be illustrated by the following examples:

Example (1). Country X imposes an income tax on corporations engaged in business in country X; however, that income tax is not applicable to banks. Country X also imposes a tax (the "bank tax") of 1 percent on the gross amount of interest income derived by banks from branches in country X; no deductions are allowed. Banks doing business in country X incur very substantial costs and expenses (*e.g.*, interest expense) attributable to their interest income. The bank tax neither provides for recovery of significant costs and expenses nor provides any allowance that significantly compensates for the lack of such recovery. Since such banks are not almost certain never to incur a loss on their interest income from branches in country X, the bank tax does not satisfy the net income requirement. However, if the tax on corporations is generally imposed, the bank tax satisfies the criteria of § 1.903–1(a) and therefore is a tax in lieu of an income tax.

Example (2). Country X law imposes an income tax on persons engaged in business in country X. The base of that tax is realized net income attributable under reasonable principles to such business. Under the tax law of country X, a bank is not considered to be engaged in business in country X unless it has a branch in country X and interest income earned by a bank from a loan to a resident of country X is not considered attributable to business conducted by the bank in country X unless a branch of the bank in country X performs certain significant enumerated activities, such as negotiating the loan. Country X also imposes a tax (the "bank tax") of 1 percent on the gross amount of interest income earned by banks from loans to residents of country X if such banks do not engage in business in country X or if such interest income is not considered attributable to business conducted in country X. For the same reasons as are set forth in example (1), the bank tax does not satisfy the net income requirement. However, if the tax on persons engaged in business in country X is generally imposed, the bank tax satisfies the criteria of § 1.903–1(a) and therefore is a tax in lieu of an income tax.

Example (3). A foreign tax is imposed at the rate of 40 percent on the amount of gross wages realized by an employee; no deductions are allowed. Thus, the tax law neither provides for recovery of costs and expenses nor provides any allowance that effectively compensates for the lack of such recovery. Because costs and expenses of employees attributable to wage income are almost always insignificant compared to the gross wages realized, such costs and expenses will almost always not be so high as to offset the gross wages and the rate of the tax is such that, under the circumstances, after the tax is paid, employees subject to the tax are almost certain to have net gain. Accordingly, the tax satisfies the net income requirement.

(c) *Soak-up taxes.*—(1) *In general.* Pursuant to paragraph (a)(3)(ii) of this section, the predominant character of a foreign tax that satisfies the requirement of paragraph (a)(3)(i) of this section is that of a income tax in the U.S. sense only to the extent that liability for the foreign tax is not dependent (by its terms or otherwise) on the availability of a credit for the tax against income tax liability to another country. Liability for foreign tax is dependent on the availability of a credit for the foreign tax against income tax liability to another country only if and to the extent that the foreign tax would not be imposed on the taxpayer but for the availability of such a credit. See also § 1.903–1(b)(2).

(2) *Examples* The provisions of paragraph (c)(1) of this section may be illustrated by the following examples:

Example (1). Country X imposes a tax on the receipt of royalties from sources in country X by nonresidents of country X. The tax is 15 percent of the gross amount of such royalties unless the recipient is a resident of the United States or of country A, B, C, or D, in which case the tax is 20 percent of the gross amount of such royalties. Like the United States, each of countries A, B, C and D allows its residents a credit against the income tax otherwise payable to it for income taxes paid to other countries. Because the 20 percent rate applies only to residents of countries which allow a credit for taxes paid to other countries and the 15 percent rate applies to residents of countries which do not allow such a credit, one-fourth of the country X tax would not be imposed on residents of the United States but for the availability of such a credit. Accordingly, one-fourth of the country X tax imposed on residents of the United States who receive royalties from sources in country X is dependent on the availability of a credit for the country X tax against income tax liability to another country.

Example (2). Country X imposes a tax on the realized net income derived by all nonresidents from carrying on a trade or business in country X. Although country X law does not prohibit other nonresidents from carrying on business in country X, United States persons are the only nonresidents of country X that carry on business in country X in 1984. The country X tax would be imposed in its entirety on a nonresident of country X irrespective of the availability of a credit for country X tax against income tax liability to another country. Accordingly, no portion of that tax is dependent on the availability of such a credit.

Example (3). Country X imposes tax on the realized net income of all corporations incorporated in country X. Country X allows a tax holiday to qualifying corporations incorporated in country X that are owned by nonresidents of country X, pursuant to which no country X tax is imposed on the net income of a qualifying corporation for the

first ten years of its operations in country X. A corporation qualifies for the tax holiday if it meets certain minimum investment criteria and if the development office of country X certifies that in its opinion the operations of the corporation will be consistent with specified development goals of country X. The tax office will not so certify to any corporation owned by persons resident in countries that allow a credit (such as that available under section 902 of the Internal Revenue Code) for country X tax paid by a corporation incorporated in country X. In practice, tax holidays are granted to a large number of corporations, but country X tax is imposed on a significant number of corporations incorporated in country X (*e.g.* those owned by country X persons and those which have had operations for more than 10 years) in addition to corporations denie a tax holiday because their shareholders qualify for a credit for the country X tax against income tax liability to another country. In the case of corporations denied a tax holiday because they have U.S. shareholders, no portion of the country X tax during the period of the denied 10-year tax holiday is dependent on the availability of a credit for the country X tax against income tax liability to another country.

Example (4). The facts are the same as in example (3), except that corporations owned by persons resident in countries that will allow a credit for country X tax at the time when dividends are distributed by the corporations are granted a provisional tax holiday. Under the provisional tax holiday, instead of relieving such a corporation from country X tax for 10 years, liability for such tax is deferred until the corporation distributes dividends. The result is the same as in example (3).

(d) *Separate levies.*—(1) *In general.* For purposes of sections 901 and 903, whether a single levy or separate levies are imposed by a foreign country depends on U.S. principles and not on whether foreign law imposes the levy or levies in a single or separate statutes. A levy imposed by one taxing authority (*e.g.* the national government of a foreign country) is always separate for purposes of sections 901 and 903 from a levy imposed by another taxing authority (*e.g.* a political subdivision of that foreign country). Levies are not separate merely because different rates apply to different taxpayers. For example, a foreign levy identical to the tax imposed on U.S. citizens and resident alien individuals by section 1 of the Internal Revenue Code is a single levy notwithstanding the levy has graduated rates and applies different rate schedules to unmarried individuals, married individuals who file separate returns and married individuals who file joint returns. In general, levies are not separate merely because some provisions determining the base of the levy apply, by their terms or in practice, to some, but not all, persons subject to the levy. For example, a foreign levy identical to the tax imposed by section 11 of the Internal Revenue Code is a single levy even though some provisions apply by their terms to some but not all corporations subject to the section 11 tax (*e.g.* section 465 is by its terms applicable to corporations described in sections 465(a)(1)(B) and 465(a)(1)(C), but not to other corporations), and even though some provisions apply in practice to some but not all corporations subject to the section 11 tax (*e.g.* section 611 does not, in practice, apply to any corporation that does not have a qualifying interest in the type of property described in section 611(a)). However, where the base of a levy is different in kind, and not merely in degree, for different classes of persons subject to the levy, the levy is considered for purposes of sections 901 and 903 to impose separate levies for such classes of persons. For example, regardless of whether they are contained in a single or separate foreign statutes, a foreign levy identical to the tax imposed by section 871(b) of the Internal Revenue Code is a separate levy from a foreign levy identical to the tax imposed by section 1 of the Internal Revenue Code as it applies to persons other than those described in section 871(b), and foreign levies identical to the taxes imposed by sections 11, 541, 881, 882, 1491 and 3111 of the Internal Revenue Code are each separate levies, because the base of each of those levies differs in kind, and not merely in degree, from the base of each of the others. Accordingly, each such levy must be analyzed separately to determine whether it is an income tax within the meaning of paragraph (a)(1) of this section and whether it is a tax in lieu of an income tax within the meaning of paragraph (a) of § 1.903–1. Where foreign law imposes a levy that is the sum of two or more separately computed amounts, and each such amount is computed by reference to a separate base, separate levies are considered, for purposes of sections 901 and 903, to be imosed. A separate base may consist, for example, of a particular type of income or of an amount unrelated to income, *e.g.*, wages paid. Amounts are not separately computed if they are computed separately merely for purposes of a preliminary computation and are then combined as a single base. In the case of levies that apply to dual capacity taxpayers, see also § 1.901–2A(a).

(2) *Contractual modifications.* Notwithstanding paragraph (d)(1) of this section, if foreign law imposing a levy is modified for one or more persons subject to the levy by a contract entered into by such person or persons and the foreign country, then foreign law is considered for purposes of sections 901 and 903 to impose a separate levy for all persons to whom such contractual modification of the levy applies, as contrasted to the levy as applied to all persons to whom such contractual modification does not apply. In applying the provisions of paragraph (c) of this section to a tax as modified by such a contract, the provisions of § 1.903–1(b)(2) shall apply.

(3) *Examples.* The provisions of paragraph (d)(1) of this section may be illustrated by the following examples:

Example (1). A foreign statute imposes a levy on corporations equal to the sum of 15% of the corporation's realized net income plus 3% of its net worth. As the levy is the sum of two separately computed amounts, each of which is computed by reference to a separate base, each of the portion of the levy based on income and the portion of the levy based on net worth is considered, for purposes of sections 901 and 903, to be separate levy.

Example (2). A foreign statue imposes a levy on nonresident alien individuals analogous to the taxes imposed by section 871 of the Internal Revenue Code. For the same reasons as set forth in example (1), each of the portion of the foreign level analogous to the tax imposed by section 871(a) and the portion of the foreign level analogous to the tax imposed by sections 871 (b) and 1, is considered, for purposes of sections 901 and 903, to be a separate levy.

Example (3). A single foreign statute or separate foreign statutes impose a foreign levy that is the sum of the products of specified rates applied to specified bases, as follows:

Base	Rate (percent)
Net income from mining	45
Net income from manufacturing	50
Net income from technical services	50
Net income from other services	45
Net income from investments	15
All other net income	50

In computing each such base, deductible expenditures are allocated to the type of income they generate. If allocated deductible expenditures exceed the gross amount of a specific type of income, the excess may not be applied against income of a different specified type. Accordingly, the levy is the sum of several separately computed amounts, each of which is computed by reference to a separate base. Each of the levies on mining net income, manufacturing net income, technical services net income, other services net income, investment net income and other net income is, therefore, considered, for purposes of sections 901 and 903, to be a separate levy.

Example (4). The facts are the same as in example (3), except that excess deductible expenditures allocated to one type of income are applied against other types of income to which the same rate applies. The levies on

mining net income and other services net income together are considered, for purposes of sections 901 and 903, to be a single levy since, despite a separate preliminary computation of the bases, by reason of the permitted application of excess allocated deductible expenditurues, the bases are not separately computed. For the same reason, the levies on manufacturing net income, technical services net income and other net income together are considered, for purposes of sections 901 and 903, to be a single levy. The levy on investment net income is considered, for purposes of sections 901 and 903, to be a separate levy. These results are not dependent on whether the application of excess allocated deductible expenditures to a different type of income, as described above, is permitted in the same taxable period in which the expenditures are taken into account for purposes of the preliminary computation, or only in a different (e. g. later) taxable period.

Example (5). The facts are the same as in example (3), except that excess deductible expenditures allocated to any type of income other than investment income are applied against the other types of income (including investment income) according to a specified set of priorities of application. Excess deductible expenditures allocated to investment income are not applied against any other type of income. For the reason expressed in example (4), all of the levies are together considered, for purposes of sections 901 and 903, to be a single levy.

(e) *Amounts of income tax that is creditable.*—(1) *In general.* Credit is allowed under section 901 for the amount of income tax (within the meaning of paragraph (a)(1) of this section) that is paid to a foreign country by the taxpayer. The amount of income tax paid by the taxpayer is determined separately for each taxpayer.

(2) *Refunds and credits.*—(i) *In general.* An amount is not tax paid to a foreign country to the extent that it is reasonably likely that the amount will be refunded, credited, rebated, abated, or forgiven. It is not reasonably likely that an amount will be refunded, credited, rebated, abated, or forgiven if the amount is not greater than a reasonable approximation of final tax liability to the foreign country.

(ii) *Examples.* The provisions of paragraph (e)(2)(i) of this section may be illustrated by the following examples:

Example (1). The internal law of country X imposes a 25 percent tax on the gross amount of interest from sources in country X that is received by a nonresident of country X. Country X law imposes the tax on the nonresident recipient and requires any resident of country X that pays such interest to a nonresident to withhold and pay over to country X 25 percent of such interest, which is applied to offset the recipient's liability for the 25 pecent tax. A tax treaty between the United States and country X overrides intenal law of country X and provides that country X may not tax interest received by a resident of the United States from a resident of country X at a rate in excess of 10 percent of the gross amount of such interest. A resident of the United States may claim the benefit of the treaty only by applying for a refund of the excess withheld amount (15 percent of the gross amount of interest income) after the end of the taxable year. *A*, a resident of the United States, receives a gross amount of 100u (units of country X currency) of interest income from sources in country X in the taxable year 1982, from which 25u of country X tax is withheld. *a* files a timely claim for refund of the 15u excess withheld amount. 15u of the amount withheld (25u–10u) is reasonably likely to be refunded; therefore, 15u is not considered an amount of tax paid to country X.

Example (2). A's initial income tax liability under country X law is 100u (units of country X currency). However, under country X law *A's* initial income tax liability is reduced in order to compute its final tax liability by an investment credit of 15u and a credit for charitable contributions of 5u. The amount of income tax paid by *a* is 80u.

Example (3). A computes his income tax liability in country X for the taxable year 1982 as 100u (units of country X currency), files a tax return on that basis, and pays 100u of tax. The day after *A* files that return, *A* files a claim for refund of 90u. The difference between the 100u of liability reflected in *A's* original return and the 10u of liability reflected in *A's* refund claim depends on whether a particular expenditure made by *A* is nondeductible or deductible, respectively. Based on an analysis of the country X tax law, *A's* country X tax advisors have advised *A* that it is not clear whether or not that expenditure is deductible. In view of the uncertainty as to the proper treatment of the item in question under country X tax law, no portion of the 100u paid by *A* is reasonably likely to be refunded. If *A* receives a refund, *A* must treat the refund as required by section 905 (c) of the Internal Revenue Code.

Example (4). A levy of country X, which qualifies as an income tax within the meaning of paragraph (a)(1) of this section, provides that each person who makes payment to country X pursuant to the levy will receive a bond to be issued by country X with an amount payable at maturity equal to 10 percent of the amount paid pursuant to the levy. *A* pays 38,000u (units of country X currency) to country X and is entitled to receive a bond with an amount payable at maturity of 3800u. It is reasonably likely that a refund in the form of property (the bond) will be made. The amount of that refund is equal to the fair market value of the bond. Therefore, only the portion of the 38,000u payment in excess of the fair market value of the bond is an amount of tax paid.

(3) *Subsidies.*—(i) *General rule.* An amount is not an amount of income tax paid by a taxpayer to a foreign country to the extent that—

(A) The amount is used, directly or indirectly, by the country to provide a subsidy by any means (such as through a refund or credit) to the taxpayer; and

(B) The subsidy is determined, directly or indirectly, by reference to the amount of income tax, or the base used to compute the income tax, imposed by the country on the taxpayer.

(ii) *Indirect subsidies.* A foreign country is considered to provide a subsidy to a taxpayer if the country provides a subsidy to another person that—

(A) Owns or controls, directly or indirectly, the taxpayer or is owned or controlled, directly or indirectly, by the taxpayer or by the same persons that own or control, directly or indirectly, the taxpayer, or

(B) Engages in a transaction with the taxpayer, but only if the subsidy received by such other person is determined, directly or indirectly, by reference to the amount of income tax, or the base used to compute the income tax, imposed by the country on the taxpayer with respect to such transaction.

(iii) *Example.* The provisions of this paragraph (e)(3) may be illustrated by the following example:

Example. Country X imposes a 30-percent tax on interest received by nonresident lenders from borrowers who are residents of country X, and it is establish that this tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a). Country X remits to resident borrowers an incentive payment for engaging in foreign loans, which payment is an amount equal to 20 percent of the interest paid to nonresident lenders. Because the incentive payment is based on such interest, it is determined by reference to the base used to compute the tax in lieu of an income tax that is imposed on the nonresident lender. Under paragraph (e)(3)(ii)(B) of this section, the incentive payment is considered a subsidy provided indirectly to the nonresident lender since it is provided to a person (the borrower) that engaged in a business transaction with the lender and is based on the amount of tax in lieu of an income tax that is imposed on the lender with respect to this transaction. Therefore, two-thirds (20 percent/30 percent) of the amount withheld by a resident borrower from interest payments to a nonresident lender is not tax in lieu of an income tax that is paid by the lender under paragraph (e)(3)(i) of this section and § 1.903–1(a).

(4) *Multiple levies.*—(i) *In general.* If, under foreign law, a taxpayer's tentiative liability for one levy (the "first levy") is or can be reduced by the amount of the taxpayer's liability for a different levy (the "second levy"), then the amount considered paid by the taxpayer to the foreign country pursuant to the second levy is an amount equal to its entire liability for that levy, and the remainder of the amount paid is considered paid pursuant to the first levy. For an example of the application of this rule, see example (4) of § 1.903–1(b)(3). If, under foreign law, the amount

of a taxpayer's liability is the greater or lesser of amounts computed pursuant to two levies, then the entire amount paid to the foreign country by the taxpayer is considered paid pursuant to the levy that imposes such greater or lesser amount, respectively, and no amount is considered paid pursuant to such other levy.

(ii) *Integrated tax systems.* [Reserved]

(5) *Noncompulsory amounts.*—(i) *In general.* An amount paid is not a compulsory payment, and thus is not an amount of tax paid, to the extent that the amount paid exceeds the amount of liability under foreign law for tax. An amount paid does not exceed the amount of such liability if the amount paid is determined by the taxpayer in a manner that is consistent with a reasonable interpretation and application of the substantive and procedural provisions of foreign law (including applicable tax treaties) in such a way as to reduce, over time, the taxpayer's reasonably expected liability under foreign law for tax, and if the taxpayer exhausts all effective and practical remedies, including invocation of competent authority procedures available under applicable tax treaties, to reduce, over time, the taxpayer's liability for foreign tax (including liability pursuant to a foreign tax audit adjustment). An interpretation or application of foreign law is not reasonable if there is actual notice or constructive notice (*e.g.*, a published court decision) to the taxpayer that the interpretation or application is likely to be erroneous. A remedy is effective and practical only if the cost thereof is reasonable in light of the amount at issue and the likelihood of success. A taxpayer is not required to alter its form of doing business, its business conduct, or the form of any business tansaction in order to reduce its liability under foreign law for tax.

(ii) *Examples.* The provisions of paragraph (e)(5)(i) of this section may be illustrated by the following examples.

Example (1). *A*, a corporation organized and doing business solely in the United States, owns all of the stock of *B*, a corporation organized in country X. In 1983 *A* buys merchandise from unrelated persons for $1,000,000, shortly thereafter resells that merchandise to *B* for $600,000, and *B* later in 1983 resells the merchandise to unrelated persons for $1,200,000. Under the country X income tax, which is an income tax within the meaning of paragraph (a)(1) of this section, all corporations organized in country X are subject to a tax equal to 3 percent of their net income. In computing its 1983 country X income tax liability *B* reports $600,000 ($1,200,000—$600,000) of profit from the purchase and resale of the merchandise referred to above. The country X income tax law requires that transactions between related persons be reported at arm's length prices, and a reasonable interpretation of this requirement, as it has been applied in Country X, would consider *B*'s arm's length purchase price of the merchandise purchased from *A* to be $1,050,000. When it computes its country X tax liability *B* is aware that $600,000 is not an arm's length price (by country X standards). *B*'s knowing use of a non-arm's length price (by country X standards) of $600,000, instead of a price of $1,050,000 (an arm's length price under country X's law), is not consistent with a reasonable interpretation and application of the law of country X, determined in such a way as to reduce over time *B*'s reasonably expected liability for country X income tax. Accordingly, $13,500 (3 percent of $450,000 [$1,050,000—$600,000]), the amount of country X income tax paid by *B* to country X that is attributable to the purchase of the merchandise from *B*'s parent at less than an arm's length price, is in excess of the amount of *B*'s liability for Country X tax, and thus is not an amount of tax.

Example (2). *A*, a corporation organized and doing business solely in the United States, owns all of the stock of *B*, a corporation organized in country X. Country X has in force an income tax treaty with the United States. The treaty provides that the profits of related persons shall be determined as if the persons were not related. *A* and *B* deal extensively with each other. *A* and *B*, with respect to a series of transactions involving both of them, treat *A* as having $300,000 of income and *B* as having $700,000 of income for purposes of *A*'s United States income tax and *B*'s country X income tax, respectively. *B* has no actual or constructive notice that its treatment of these transactions under country X law is likely to be erroneous. Subsequently, the Internal Revenue Service reallocates $200,000 of this income from *B* to *A* under the authority of section 482 and the treaty. This reallocation constitutes actual notice to *A* and constructive notice to *B* that *B*'s interpretation and application of country X's law and the tax treaty is likely to be erroneous. *B* does not exhaust all effective and practical remedies to obtain a refund of the amount of country X income tax paid by *B* to country X that is attributable to the reallocated $200,000 of income. This amount is in excess of the amount of *B*'s liability for country X tax and thus is not an amount of tax.

Example (3). The facts are the same as in example (2), except that *B* files a claim for refund (an administrative proceeding) of country X tax and *A* or *B* invokes the competent authority procedures of the treaty, the cost of which is reasonable in view of the amount at issue and the likelihood of success. Nevertheless, *B* does not obtain any refund of country X tax. The cost of pursuing any judicial remedy in country X would be unreasonable in light of the amount at issue and the likelihood of *B*'s success, and *B* does not pursue any such remedy. The entire amount paid by *B* to country X is a compulsory payment and thus is an amount of tax paid by *B*.

Example (4). *A* is a U.S. person doing business in country X. In computing its income tax liability to country X, *A* is permitted, at its election, to recover the cost of machinery used in its business either by deducting that cost in the year of acquisition or by depreciating that cost on the straight line method over a period of 2, 4, 6 or 10 years. *A* elects to depreciate machinery over 10 years. This election does not result in a payment in excess of the amont of *A*'s liability for country X income tax in any year since the amount of country X tax paid by *A* is consistent with a reasonable interpretation of country X law in such a way as to reduce over time *A*'s reasonably expected liability for country X tax. Because the standard of paragraph (e)(5)(i) of this section refers to *A*'s reasonably expected liability, not its actual liability, events actually occurring in subsequent years (*e.g.* whether *A* has sufficient profit in such years so that such depreciation deductions actually reduce *A*'s country X tax liability or whether the country X tax rates change) are immaterial.

Example (5). The internal law of country X imposes a 25 percent tax on the gross amount of interest from sources in country X that is received by a nonresident of country X. Country X law imposes the tax on the nonresident recipient and requires any resident of country X that pays such interest to a nonresident to withhold and pay over to country X 25 percent of such interest, which is applied to offset the recipient's liability for the 25 percent tax. A tax treaty between the United States and country X overrides internal law of country X and provides that country X may not tax interest received by a resident of the United States from a resident of country X at a rate in excess of 10 percent of the gross amount of such interest. A resident of the United States may claim the benefit of the treaty only by applying for a refund of the excess withheld amount (15 percent of the gross amont of interest income) after the end of the taxable year. *A*, a resident of the United States, receives a gross amount of 100u (units of country X currency) of interest income from sources in country X in the taxable year 1982, from which 25u of country X tax is withheld. *A* does not file a timely claim for refund. 15u of the amount withheld (25u—10u) is not a compulsory payment and hence is not an amount of tax.

(f) *Taxpayer.*—(1) *In general.* The person by whom tax is considered paid for purposes of sections 901 and 903 is the person on whom foreign law imposes legal liability for such tax, even if another person remits such tax. For purposes of this section, § 1.901–2A and § 1.903–1, the person on whom foreign law imposes such liability is referred to as the "taxpayer."

(2) *Party undertaking tax obligation as part of transaction.*—(i) *In general.* Tax is considered paid by the taxpayer even if another party to a direct or indirect transaction with the taxpayer agrees, as a part of the transaction, to assume the taxpayer's foreign tax liability. The rules of the foregoing sentence apply notwithstanding anything to the contrary in paragraph

(e)(3) of this section. See § 1.901–2A for additional rules regarding dual capacity taxpayers.

(ii) *Examples.* The provisions of paragraph (f)(2)(i) of this section may be illustrated by the following examples:

Example (1). Under a loan agreement between *A*, a resident of country X, and *B*, a United States person, *A* agrees to pay *B* a certain amount of interest net of any tax that country X may impose on *B* with respect to its interest income. Country X imposes a 10 percent tax on the gross amount of interest income received by nonresidents of country X from sources in country X, and it is established that this tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a). Under the law of country X this tax is imposed on the nonresident recipient, and any resident of country X that pays such interest to a nonresident is required to withhold and pay over to country X 10 percent of the amount of such interest, which is applied to offset the recipient's liability for the tax. Because legal liability for the tax is imposed on the recipient of such interest income, *B* is the taxpayer with respect to the country X tax imposed on *B's* interest income from *B's* loan to *A*. Accordingly, *B's* interest income for federal income tax purposes includes the amount of country X tax that is imposed on *B* with respect to such interest income and that is paid on *B's* behalf by *A* pursuant to the loan agreement, and, under paragraph (f)(2)(i) of this section, such tax is considered for purposes of section 903 to be paid by *B*.

Example (2). Country X imposes a tax called the "country X income tax." *A*, a United States person engaged in construction activities in country X, is subject to that tax. Country X has contracted with *A* for *A* to construct a naval base. *A* is a dual capacity taxpayer (as defined in paragraph (a)(2)(ii)(A) of this section) and, in accordance with paragraphs (a)(1) and (c)(1) of § 1.901–2A, *A* has established that the country X income tax as applied to dual capacity persons and the country X income tax as applied to persons other than dual capacity persons together constitute a single levy. *A* has also established that that levy is an income tax within the meaning of paragraph (a)(1) of this section. Pursuant to the terms of the contract, country X has agreed to assume any country X tax liability that *A* may incur with respect to *A's* income from the contract. For federal income tax purposes, *A's* income from the contract includes the amount of tax liability that is imposed by country X on *A* with respect to its income from the contract and that is assumed by country X; and for purposes of section 901 the amount of such tax liability assumed by country X is considered to be paid by *A*. By reason of paragraph (f)(2)(i) of this section, country X is not considered to provide a subsidy, within the meaning of paragraph (e)(3) of this section, to *A*.

(3) *Taxes paid on combined income.* If foreign income tax is imposed on the combined income of two or more related persons (for example, a husband and wife or a corporation and one or more of its subsidiaries) and they are jointly and severally liable for the income tax under foreign law, foreign law is considered to impose legal liability on each such person for the amount of the foreign income tax that is attributable to its portion of the base of the tax, regardless of which person actually pays the tax.

(g) *Definitions.* For purposes of this section and §§ 1.901–2A and 1.903–1, the following definitions apply:

(1) The term "paid" means "paid or accrued"; the term "payment" means "payment or accrual"; and the term "paid by" means "paid or accrued by or on behalf of."

(2) The term "foreign country" means any foreign state, any possession of the United States, and any political subdivision of any foreign state or of any possession of the United States. The term "possession of the United States" includes Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands and American Samoa.

(3) The term "foreign levy" means a levy imposed by a foreign country.

(h) *Effective date.*—(1) *In general.* This section, § 1.901–2A, and § 1.903–1 apply to taxable years beginning after [date that is 30 days after date of publication of these regulations as final regulations in the **Federal Register**]. In addition, a person may elect to apply the provisions of this section, § 1.901–2A, and § 1.903–1 to earlier years. See paragraph (h)(2) of this section.

(2) *Election to apply regulations to earlier years.*—(i) *Scope of election.* An election to apply the provisions of this section, § 1.901–2A, and § 1.903–1 to taxable years beginning on or before [date that is 30 days after date of publication of these regulations as final regulations in the **Federal Register**] is made with respect to one or more foreign states and possessions of the United States with respect to taxable year of the person making the election beginning on or before [date that is 30 days after date of publication of these regulations as final regulations in the **Federal Register**]. Such election requires all of the provisions of this section, § 1.901–2A, and § 1.903–1 to be applied to such taxable year and to all subsequent taxable years of the person making the election ("elected years"). If an election applies to a foreign state or to a possession of the United States ("election country"), it applied to all taxes of the election country and to all taxes of all political subdivisions of the election country. An election does not apply to foreign taxes carried forward to any elected year from any taxable year to which the election does not apply. Such election does apply to foreign taxes carried back or forward from any elected year to any taxable year.

(ii) *Effect of election.* An election to apply the regulations to earlier years has no effect on the limitations on assessment and collection or on the limitations on credit or refund (see Chapter 66 of the Internal Revenue Code).

(iii) *Manner of making election.* An election to apply the regulations to one or more earlier taxable years is made by attaching a statement to a return, amended return, or claim for refund for the earliest taxable year to which the election relates. Such statement shall state that the election is made and, unless the election is to apply to all foreign countries, the statement shall designate the election countries. In the absence of such a designation of the election countries, all foreign countries shall be election countries.

(iv) *Time for making election.* An election to apply the regulations to earlier taxable years must be made by [date that is 1 year after date of publication of these regulations as final regulations in the **Federal Register**].

(v) *Revocation of election.* An election to apply the regulations to earlier taxable years may not be revoked.

(vi) *Affiliated groups.* A member of an affiliated group that files a consolidated United States income tax return may apply the regulations to earlier years only if an election to so apply them has been made by the common parent of such affiliated group on behalf of all members of the group.

Para. 2. A new § 1.901–2A is added immediately after § 1.901–2 to read as follows:

§ 1.901–2A Dual capacity taxpayers.

(a) *Application of separate levy rules as applied to dual capacity taxpayers.*—(1) *In general.* If the application of a foreign levy (as defined in § 1.901–2(g)(3)) is different, either by the terms of the levy or in practice, for dual capacity taxpayers (as defined in § 1.901–2(a)(2)(ii)(A)) from its application to other persons, then such difference is considered to be related to the fact that dual capacity taxpayers receive, directly or indirectly, a specific economic benefit (as defined in § 1.901–2(a)(2)(ii)(B)) from the foreign country and thus to be a difference in kind, and not merely of degree. In such a case, notwithstanding any contrary provision of § 1.901–2(d), the levy as applicable to such dual capacity taxpayers is a separate levy (within the meaning of § 1.901–2(d)) from the levy as applicable to such other persons, regardless of whether such difference is in the base of

the levy, in the rate of the levy, or both. In such a case, each of the levy as applied to dual capacity taxpayers and the levy as applied to other persons must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1(a). However, if the application of the levy is neither different by its terms nor different in practice for dual capacity taxpayers from its application to other persons, then, in accordance with § 1.901–2(d), such foreign levy as applicable to dual capacity taxpayers and such levy as applicable to other persons together constitute a single levy. In such a case, no amount paid (as defined in § 1.901–2(g)(1)) pursuant to such levy by any such dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit, and such levy, as applicable in the aggregate to such dual capacity taxpayers and to such other persons, is analyzed to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a). Application of a foreign levy to dual capacity taxpayers will be considered to be different in practice from application of that levy to other persons, even if no such difference is apparent from the terms of the levy, unless it is established that application of that levy to dual capacity taxpayers does not differ in practice from its application to other persons.

(2) *Examples.* The provisions of paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). Under a levy of country X called the country X income tax, every corporation that does business in country X is required to pay to country X 40% of its income from its business in Country X. Income for purposes of the country X income tax is computed by subtracting specified deductions from the corporation's gross income derived from its business in country X. The specified deductions include the corporation's expenses attributable to such gross income and allowances for recovery of the cost of capital expenditures to such gross income, except that under the terms of the country X income tax a corporation engaged in the exploitation of minerals K, L or M in country X is not permitted to recover, currently or in the future, expenditures it incurs in exploring for those minerals. In practice, the only corporations that engage in exploitation of the specified minerals in country X are dual capacity taxpayers. Thus, the application of the country X income tax to dual capacity taxpayers is different from its application to other corporations. The country X income tax as applied to corporations engage in the exploitation of minerals K, L or M (dual capacity taxpayers) is, therefore, a separate levy from the country X income tax as applied to other corporations. Accordingly, each of (i) the country X income tax as applied to such dual capacity taxpayers and (ii) the country X income tax as applied to such other persons, must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1(a).

Example (2). The facts are the same as in example (1), except that it is demonstrated that corporations that engage in exploitation of the specified minerals in country X and that are subject to the levy include both dual capacity taxpayers and other persons. The country X income tax as applied to all corporations is, therefore, a single levy. Accordingly, no amount paid pursuant to the country X income tax by a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country X income tax is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all corporations subject to it.

Example (3). Under a levy of country Y called the country Y income tax, each corporation incorporated in country Y is required to pay to country Y a percentage of its worldwide income. The applicable percentage is greater for such corporations that earn more than a specified amount of income than for such corporations that earn less than that amount. Income for purposes of the levy is computed by deducting from gross income specified types of expenses and specified allowances for capital expenditures. The expenses for which deductions are permitted differ depending on the type of business in which the corporation subject to the levy is engaged, *e.g.*, a deduction for interest paid to a related party is not allowed for corporations engaged in enumerated types of activities. In addition, carryover of losses from one taxable period to another is permitted for corporations engaged in specified types of activities, but not for corporations engaged in other activities. By its terms, the foreign levy makes no distinction between dual capacity taxpayers and other persons. It is established that in practice the higher rate of the country Y income tax applies to both dual capacity taxpayers and other persons and that in practice the differences in the base of the country Y income tax (*e.g.*, the lack of a deduction for interest paid to related parties for some corporations subject to the levy and the lack of a carryover provision for some corporations subject to the levy) apply to both dual capacity taxpayers and other persons. The country Y income tax as applied to all corporations incorporated in country Y is therefore a single levy. Accordingly, no amount paid pursuant to the country Y income tax by a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and if the country Y income tax is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

Example (4). The facts are the same as in example (3), except that it is not established that in practice the higher rate does not apply only to dual capacity taxpayers. By reason of such higher rate, application of the country Y income tax to dual capacity taxpayers is different in practice from application of the country Y income tax to other persons subject to it. The country Y income tax as applied to dual capacity taxpayers is therefore a separate levy from the country Y income tax as applied to other corporations incorporated in country Y. Accordingly, each of (i) the country Y income tax as applied to dual capacity taxpayers and (ii) the country Y income tax as applied to other corporations incorporated in country Y, must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2 (a) (1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1 (a).

Example (5). Under a levy of country X called the country X tax, all persons who do not engage in business in country X and who receive interest income from residents of country X required to pay to country X 25 percent of the gross amount of such interest income. It is established that the country X tax applies by its terms and in practice to banks that are dual capacity taxpayers and to persons who are not dual capacity taxpayers and that application to such dual capacity taxpayers does not differ by its terms or in practice from application to such other persons. The country X tax as applied to all such persons (both the dual capacity taxpayers and the other persons) is, therefore, a single levy. Accordingly, no amount paid pursuant to the country X tax by such a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country X tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

(b) *Burden of proof for dual capacity taxpayers.*—(1) *In general.* For credit to be allowable under section 901, or 903, the person claiming credit must establish that the foreign levy with respect to which credit is claimed is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), respectively. Thus, such person must establish, among other things, that such levy is a tax. See § 1.901–2(a)(2)(i) and § 1.903–1(a). Where a person claims credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pursuant to a foreign levy, § 1.901–2(a)(2)(i) and § 1.903–1(a), respectively, require such person to establish the amount, if any, that is paid pursuant to the distinct element of the levy that is a tax. If, pursuant to paragraph (a)(1) of this section and § 1.901–2(d), such levy as

applicable to dual capacity taxpayers and such levy as applicable to other persons together constitute a single levy, then no amount paid pursuant to that levy by any such dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit. Accordingly, such levy has only one distinct element, and the levy either is or is not, in its entirety, a tax. If, however, such levy as applicable to dual capacity taxpayers is a separate levy from such levy as applicable to other persons, then a person claiming credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pusuant to such separate levy may establish the amount, if any, that is paid pursuant to the distinct element of the levy that is a tax only by the facts and circumstances method or the safe harbor method described in paragraph (c) of this section. If such person fails to so establish such amount, no portion of the amount that is paid pursuant to the separate levy by the dual capacity taxpayer to such foreign country shall be treated as an amount of tax. Any amount that, either by reason of application of the methods of paragraph (c) of this section or by reason of the immediately preceding sentence, is not treated as an amount of tax shall (i) be considered to have been paid in exchange for a specific economic benefit; (ii) be characterized (*e.g.* as royalty, purchase price, cost of sales, reduction of the proceeds of a sale, or reduction of interest income) according to the nature of the transaction and of the specific economic benefit received; and (iii) be treated according to such characterization for all purposes of Chapter 1 of the Internal Revenue Code, except that any determination that an amount is not tax for purposes of section 901 or 903 by reason of application of the safe harbor method shall not be taken into account in determining whether or not such an amount is to be characterized and treated as tax for purposes of computing an allowance for percentage depletion under sections 611 and 613.

(2) *Effect of certain treaties.* If, irrespective of whether such credit would be allowable under section 901 or 903 in the absence of a treaty, the United States has in force a treaty with a foreign country that treats a foreign levy as an income tax for purposes of allowing credit for United States tax and if the person claiming credit is entitled to the benefit of such treaty, then, unless such person claims credit not under the treaty but under section 901 or 903, and except to the extent the treaty provides otherwise and subject to all terms, conditions and limitations provided in the treaty, no portion of an amount paid with respect to such levy by a dual capacity taxpayer shall be considered to be paid in exchange for a specific economic benefit. If, however, such person claims credit not under such treaty but rather under section 901 or 903 (*e.g.*, so as not to be subject to a limitation contained in such treaty), the provisions of this section apply to such levy.

(c) *Satisfaction of burden of proof.*—(1) *In general.* This paragraph (c) sets out the methods by which a person who claims credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pursuant to a foreign levy that satisfies all of the criteria of section 901 or 903 other than the determination of the distinct element of the levy that is a tax and of the amount that is paid pursuant to that distinct element (a "qualifying levy") may establish such distinct element and amount. Such person must establish the amount paid pursuant to a qualifying levy that is paid pursuant to the distinct element of the levy that is a tax (which amount therefore is an amount of income tax within the meaning of § 1.901–2 (a)(1) or an amount of tax in lieu of income tax within the meaning of § 1.903–1 (a)(a "qualifying amount')) only by the facts and circumstances method set forth in paragraph (c)(2) of this section or the safe harbor method set forth in paragraph (c)(3) of this section. A levy is not a qualifying levy, and neither the facts and circumstances method nor the safe harbor method applies to an amount paid by a dual capacity taxpayer pursuant to a foreign levy, if it has been established pursuant to § 1.901–2 (d) and paragraph (a)(1) of this section that that levy as applied to that dual capacity taxpayer and that levy is applied to persons other than dual capacity taxpayers together constitute a single levy, or if it has been established in accordance with the first sentence of paragraph (b)(2) of this section that credit is allowable by reason of a treaty for an amount paid with respect to such levy.

(2) *Facts and circumstances method.*—(i) *In general.* If the person claiming credit establishes, based on all of the relevant facts and circumstances, the amount, if any, paid by the dual capacity taxpayer pursuant to the qualifying levy that is not paid in exchange for a specific economic benefit, such amount is the qualifying amount with respect to such qualifying levy. In determining the qualifying amount with respect to a qualifying levy under the facts and circumstances method, neither the methodology nor the results that would have obtained if a person had elected to apply the safe harbor method to such qualifying levy is a relevant fact or circumstance. Accordingly, neither such methodology nor such results shall be taken into account in applying the facts and circumstances method.

(ii) *Examples.* The application of the facts and circumstances method is illustrated by the following examples:

Example (1). Country A imposes a levy, called the country A income tax, on corporations that carry on the banking business through a branch in country A. Because all such corporations lend money to the government of country A, the country A income tax is imposed only on dual capacity taxpayers. *L*, a corporation that carries on the banking business through a branch in country A and that is a dual capacity taxpayer, establishes that all of the criteria of section 901 are satisfied by the country A income tax, except for the determination of the distinct element of the levy that is a tax and of *L*'s qualifying amount with respect thereto. The country A income tax is, therefore, a qualifying levy. *L* establishes that, although all persons subject to the country A income tax are dual capacity taxpayers, the country A income tax applies in the same manner to income from such persons' transactions with the government of country A as it does to income from their transactions with private persons; that there are significant transactions (either in volume or in amount) with private persons; and that the portion of such persons' income that is derived from transactions with the government of country A on the one hand or private persons on the other varies greatly among persons subject to the country A income tax. *L* has demonstrated under the facts and circumstances method that the entire amount it has paid pursuant to the country A income tax is a qualifying amount.

Example (2). *A*, a domestic corporation that is a dual capacity taxpayer subject to a qualifying levy of country X, pays 1000u (units of country X currency) to country X in 1986 pursuant to the qualifying levy. *A* does not elect to apply the safe harbor method to country X, but if it had so elected, 800u would have been *A*'s qualifying amount with respect to the levy. Based on all of the relevant facts and circumstances (which do not include either the methodology of the safe harbor method or the qualifying amount that would have obtained under that method), *A* establishes that 628u of such 1000u is not paid in exchange for a specific economic benefit. *A* has demonstrated under the facts and circumstances method that 628u is a qualifying amount. Pursuant to paragraph (b)(1) of this section, 372u (1000u–628u) is considered to have been paid by *A* in exchange for a specific economic benefit. That amount is characterized and treated as provided in paragraph (b)(1) of this section.

Example (3). The facts are the same as in example (2), except that under the safe harbor method 580u would have been *A*'s qualifying amount with respect to the levy.

That amount is not a relevant fact or circumstance and the result is the same as in example (2).

(3) *Safe harbor method.* Under the safe harbor method, the person claiming credit makes an election as provided in paragraph (d) of this section and, pursuant to such election, applies the safe harbor formula described in paragraph (e) of this section to the qualifying levy or levies to which the election applies.

(d) *Election to use the safe harbor method.—(1) Scope of election.* An election to use the safe harbor method is made with respect to one or more foreign states and possessions of the United States with respect to a taxable year of the person making the election (the "electing person"). Such election applies to such taxable year and to all subsequent taxable years of the electing person ("election years"), unless the election is revoked in accordance with paragraph (d)(4) of this section. If an election applies to a foreign state or possession of the United States ("elected country"), it applies to all qualifying levies of the elected country and to all qualifying levies of all political subdivisions of the elected country with respect to which the electing person claims credit for amounts paid (or deemed to be paid) by any dual capacity taxpayer. A member of an affiliated group that files a consolidated United States income tax return may use the safe harbor method for a foreign state or U.S. possession only if an election to use the safe harbor method for that state or possession has been made by the common parent of such affiliated group on behalf of all members of the group. Similarly, a member of an affiliated group that does not file a consolidated United States income tax return may elect to use the safe harbor method for a foreign state or U.S. possession only if an election to use the safe harbor method for that state or possession is made by each member of the affiliated group which claims credit for taxes paid to such state or possession or to any political subdivision thereof. An election to use the safe harbor method for an elected country does not apply to foreign taxes carried back or forward to any election year from any taxable year to which the election does not apply. Such election does apply to foreign taxes carried back or forward from any election year to any taxable year. A person who elects to use the safe harbor method for one or more foreign countries may, in a later taxable year, also elect to use that method for other foreign countries.

(2) *Effect of election.* An election to use the safe harbor method described in paragraph (c)(3) of this section requires the electing persons to apply the safe harbor formula of paragraph (e) of this section to all qualifying levies of all elected countries and their political subdivisions, and constitutes a specific waiver by such person of the right to use the facts and circumstances method described in paragraph (c)(2) of this section with respect to any levy of any elected country or any political subdivision thereof.

(3) *Time and manner of making election.*—(i) *In general.* To elect to use the safe harbor method, an electing person must attach a statement to its United States income tax return for the taxable year for which the election is made and must file such return by the due date (including extensions) for the filing thereof. Such statement shall state—

(A) That the electing person elects to use the safe harbor method for the foreign states and the possessions of the United States designated in the statement and their political subdivisions, and

(B) That the electing person waives the right, for any election year, to use the facts and circumstances method for any levy of the designated states, possessions and political subdivisions.

(ii) *Retroactive election.* Nothwithstanding the requirements of paragraph (d)(3)(i) of this section relating to the time and manner of making an election, an election may be made for a taxable year beginning on or before [date that is 30 days after date of publication of these regulations as final regulations in the **Federal Register**], provided the electing person elects in accordance with § 1.901–2(h) to apply all of the provisions of this section, § 1.901–2 and § 1.903–1 to such taxable year and provided all of the requirements set forth in this paragraph (d)(3)(ii) are satisfied. Such an election shall be made by timely (including extensions) filing a federal income tax return or an amended federal income tax return for such taxable year; by attaching to such return a statement containing the statements and information set forth in paragraph (d)(3)(i) of this section; and by filing amended income tax returns for all subsequent election years for which income tax returns have previously been filed and applying the safe harbor method in such amended returns. All amended returns referred to in the immediately preceding sentence must be filed on or before [date that is 1 year after date of publication of these regulations as final regulations in the **Federal Register**] and at a time when neither assessment of a deficiency for any of such election years nor the filing of a claim for any refund claimed in any such amended return is barred.

(4) *Revocation of election.* An election to use the safe harbor method decribed in paragraph (c)(3) of this section may not be revoked without the consent of the Commissioner. An application for consent to revoke such election with respect to one or more elected countries shall be made to the Commissioner of Internal Revenue, Washington, D.C. 20224. Such application shall be made not later than the 30th day before the due date (including extensions) for the filing of the income tax return for the first taxable year for which the revocation is sought to be effective, except in the case of an event described in (i), (ii), (iii) or (iv) below, in which case an application for revocation with retroactive effect may be made within a reasonable time after such event. The Commissioner may make his consent to any revocation conditioned upon adjustments being made in one or more taxable years so as to prevent the revocation from resulting in a distortion of the amount of any item relating to tax liability in any taxable year. The Commissioner will normally consent to a revocation (including, in the case of (i), (ii), (iii) or iv) below, one with retroactive effect), if—

(i) An amendment to the Internal Revenue Code or the regulations thereunder is made which applies to the taxable year for which the revocation is to be effective and the amendment substantially affects the taxation of income from sources outside the United States under subchapter N of Chapter 1 of the Internal Revenue Code; or

(ii) After a safe harbor election is made with respect to a foreign state, a tax treaty between the United States and that state enters into force; that treaty covers a foreign tax to which the safe harbor election applies; and that treaty applies to the taxable year for which the revocation is to be effective; or

(iii) After a safe harbor election is made with respect to a foreign state or possession of the United States, a material change is made in the tax law of that state or possession or of a political subdivision of that state or possession; and the changed law applies to the taxable year for which the revocation is to be effective and has a material effect on the taxpayer; or

(iv) With respect to a foreign country to which a safe harbor election applies, it is determined that there is no generally imposed income tax and thus

that the qualifying amount under the safe harbor formula of paragraph (e) of this section is zero; or

(v) The election has been in effect with respect to at least three taxable years prior to the taxable year for which the revocation is to be effective.

The Commissioner may, in his discretion, consent to a revocation even if none of the foregoing subdivisions (i) through (v) is applicable. If an election has been revoked with respect to an elected country, a subsequent election to apply the safe harbor method with respect to such elected country may be made only with the consent of the Commissioner and upon such terms and conditions as the Commissioner in his discretion may require.

(e) *Safe harbor formula.*—(1) *In general.* The safe harbor formula applies to determine the distinct element of a qualifying levy that is a tax and the amount paid by a dual capacity taxpayer pursuant to such qualifying levy that is the qualifying amount with respect to such levy. Under the safe harbor formula the amount paid in a taxable year pursuant to a qualifying levy that is the qualifying amount with respect to such levy is an amount equal to:

$$(A-B-C) \times D/(1-D)$$

where:

A = the amount of gross receipts as determined under paragraph (e)(2) of this section

B = the amount of costs and expenses as determined under paragraph (e)(2) of this section

C = the total amount paid in the taxable year by the dual capacity taxpayer pursuant to the qualifying levy (the "actual payment amount")

D = the tax rate as determined under paragraph (e)(3) of this section

In no case, however, shall the qualifying amount exceed the actual payment amount; and the qualifying amount is zero if the safe harbor formula yields a qualifying amount less than zero. The safe harbor formula is intended to yield a qualifying amount that is approximately equal to the amount of generally imposed income tax within the meaning of paragraphs (a) and (b)(1) of § 1.903–1 ("general tax") of the foreign country that would have been required to be paid in the taxable year by the dual capacity taxpayer if it had not been a dual capacity taxpayer and if the base of the general tax had allowed a deduction in such year for the amount ("specific economic benefit amount") by which the actual payment amount exceeds the qualifying amount. Thus, if an elected country has no general tax, application of the safe harbor formula to a qualifying levy of that elected country yields a qualifying amount of zero and a specific economic benefit amount equal to the actual payment amount. The specific economic benefit amount is considered to be the portion of the actual payment amount that is paid pursuant to the distinct portion of the qualifying levy that imposes an obligation in exchange for a specific economic benefit. The specific economic benefit amount is therefore considered to be an amount paid by the dual capacity taxpayer in exchange for such specific economic benefit, which amount must be treated for purposes of Chapter 1 of the Internal Revenue Code as provided in paragraph (b)(1) of this section.

(2) *Determination of gross receipts and costs and expenses.* For purposes of the safe harbor formula, gross receipts and costs and expenses are, except as otherwise provided in this paragraph (e), the gross receipts and the deductions for costs and expenses, respectively, as determined under the foreign law applicable in computing the actual payment amount of the qualifying levy to which the safe harbor formula applies. However, except as otherwise provide in this paragraph (e), if provisions of the qualifying levy increase the liability imposed on dual capacity taxpayers compared to the general tax liability of persons other than dual capacity taxpayers by reason of the determination or treatment of gross receipts or of costs or expenses, the provisions generally applicable in computing such other persons' tax base under the general tax shall apply to determine gross receipts and costs and expenses for purposes of computing the qualifying amount. If neither the general tax nor the qualifying levy permits recovery of one or more costs or expenses, and by reason of the failure to permit such recovery the qualifying levy does not satisfy the net income requirement of § 1.901–2(b)(4) (even though the general tax does satisfy that requirement), then such cost or expense shall be considered a cost or expense for purposes of computing the qualifying amount. If the qualifying levy does not permit recovery of one or more significant costs or expenses, but provides allowances that effectively compensate for nonrecovery of such significant costs or expenses, then, for puposes of computing the qualifying amount, costs and expenses shall not include the costs and expenses under the general tax whose nonrecovery under the qualifying levy is compensated for by such allowances but shall instead include such allowances. In determining costs and expenses for purposes of computing the qualifying amount with respect to a qualifying levy, the actual payment amount with respect to such levy shall not be considered a cost or expense. For purposes of this paragraph, the following differences in gross receipts and costs and expenses between the qualifying levy and the general tax shall not be considered to increase the liability imposed on dual capacity taxpayers compared to the general tax liability of persons other than dual capacity taxpayers, but only if the general tax would be an income tax within the meaning of § 1.901–2 (a)(1) if such different treatment under the qualifying levy had also applied under the general tax:

(i) Differences in the time of realization or recognition of one or more items of income or in the time when recovery of one or more costs and expenses is allowed (unless the period of recovery of such costs and expenses pursuant to the qualifying levy is such that it effectively is a denial of recovery of such costs and expenses, as described in § 1.901–2 (b)(4)(i)); and

(ii) Differences in consolidation or carryover provisions of the types described in paragraphs (b)(4)(ii) and (b)(4)(iii) of § 1.901–2.

(3) *Determination of tax rate.* The tax rate for purposes of the safe harbor formula is the tax rate (expressed as a decimal) that is applicable in computing tax liability under the general tax. If the rate of the general tax varies according to the amount of the base of that tax, the rate to be applied in computing the qualifying amount is the rate that applies under the general tax to a person whose base is, using the terminology of paragraph (e)(1) of this section, "A" minus "B" minus the specific economic benefit amount paid by the dual capacity taxpayer pursuant to the qualifying levy, provided such rate applies in practice to persons other than dual capacity taxpayers, or, if such rate does not so apply in practice, the next lowest rate of the general tax that does so apply in practice.

(4) *Determination of applicable provisions of general tax.*—(i) *In general.* If the general tax is a series of income taxes (*e.g.* on different types of income), or if the application of the general tax differs by its terms for different classes of persons subject to the general tax (*e.g.*, for persons in different industries), then, except as otherwise provided in this paragraph (e), the qualifying amount shall be computed by reference to the income tax contained in such series of income taxes, or in the case of such different applications the application of the general tax, that by its terms and in

practice imposes the highest tax burden on persons other than dual capacity taxpayers. Notwithstanding the preceding sentence, the general tax amount shall be computed by reference to the application of the general tax to entities of the same type (as determined under the general tax) as the dual capacity taxpayer and to persons of the same resident or nonresident status (as determined under the general tax) as the dual capacity taxpayer; and, if the general tax treats business income differently from non-business (*e.g.* investment) income (as determined under the general tax), the dual capacity taxpayer's business and non-business income shall be treated as the general tax treats such income. If, for example, the dual capacity taxpayer would, under the general tax, be treated as a resident (*e.g.* because the general tax treats an entity that is organized in the foreign country or managed or controlled there as a resident) and as a corporation (*i.e.* because the rules of the general tax treat an entity like the dual capacity taxpayer as a corporation), and if some of the dual capacity taxpayer's income would, under the general tax, be treated as business income and some as non-business income, the dual capacity taxpayer and its income shall be so treated in computing the qualifying amount.

(ii) *Establishing that provisions apply in practice.* For purposes of the safe harbor formula a provision shall be considered a provision of the general tax only if it is reasonably likely that that provision applies by its terms and in practice to persons other than dual capacity taxpayers.

(5) *Multiple levies.* If, in any election year of an electing person, with respect to any elected country and all of its political subdivisions,

(i) Amounts are paid by a dual capacity taxpayer pursuant to more than one qualifying levy or pursuant to one or more levies that are qualifying levies and one or more levies that are not qualifying levies by reason of the last sentence of paragraph (c)(1) of this section but with respect to which credit is allowable, or

(ii) More than one general tax would have been required to be paid by a dual capacity taxpayer if it had not been a dual capacity taxpayer, or

(iii) Credit is claimed with respect to amounts paid by more than one dual capacity taxpayer,

the provisions of this paragraph (e) shall be applied such that the aggregate qualifying amount with respect to such qualifying levy or levies plus the aggregate amount paid with respect to levies referred to in (i) that are not qualifying levies shall be the aggregate amount that would have been required to be paid in the taxable year by such dual capacity taxpayer (or taxpayers) pursuant to such general tax or taxes if it (or they) had not been a dual capacity taxpayer (or taxpayers) and if the base of such general tax or taxes had allowed a deduction in such year for the aggregate specific economic benefit amount. However, in no event shall such aggregate amount exceed the aggregate actual tax amount plus the aggregate amount paid with respect to levies referred to in (i) that are not qualifying levies, nor be less than the aggregate amount paid with respect to levies referred to in (i) that are not qualifying levies.

(6) *Examples.* the provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). Under a levy of country X called the country X income tax, every corporation that does business in country X is required to pay to country X 40% of its income from its business in country X. Income for purposes of the country X income tax is computed by subtracting specified deductions from the corporation's gross income derived from its business in country X. The specified deductions include the corporation's expenses attributable to such gross income and allowances for recovery of the cost of capital expenditures attributable to such gross income, except that under the terms of the country X income tax a corporation engaged in the exploitation of minerals K, L or M in country X is not permitted to recover, currently or in the future, expenditures it incurs in exploring for those minerals. In practice, the only corporations, that engage in exploitation of the specified minerals in country X are dual capacity taxpayers. Because no other persons subject to the levy engage in exploitation of minerals K, L or M in country X, the application of the country X income tax to dual capacity taxpayers is different from its application to other corporations. The country X income tax as applied to corporations that engage in the exploitation of minerals K, L or M (dual capacity taxpayers) is, therefore, a separate levy from the country X income tax as applied to other corporations.

A is a U.S. corporation that is engaged in country X in exploitation of mineral K. Natural deposits of mineral K in country X are owned by country X, and *A* has been allowed to extract mineral K in consideration of payment of a bonus and of royalties to an instrumentality of country X. Therefore, *A* is a dual capacity taxpayer. In 1984, *A* does business in country X within the meaning of the levy. *A* has validly elected the safe harbor method for country X for 1984. In 1984, as determined in accordance with the country X income tax as applied to *A*, *A* has gross receipts of 120u (units of country X currency), deducts 20u of costs and expenses, and pays 40u (40% of (120u − 20u)) to country X pursuant to the levy. *A* also incurs in 1984 10u of nondeductible expenditures for exploration for mineral K. *A* establishes that the country X income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1), that is is the generally imposed income tax of country X and hence the general tax, and that all of the criteria of section 903 are satisfied with respect to the country X income tax as applied to dual capacity taxpayers, except for the determination of the distinct element of the levy that is a tax and of *A*'s qualifying amount with respect thereto. (No conclusion is reached whether the country X income tax as applied to dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1). Such a determination would require, among other things, that the country X income tax as so applied, judged on the basis of its predominant character, meets the net income requirement of § 1.901–2(b)(4) notwithstanding its failure to permit recovery of exploration expenses.) *A* has therefore demonstrated that the country X income tax as applied to dual capacity taxpayers is a qualifying levy.

In applying the safe harbor formula, in accordance with paragraph (e)(2), the amount of *A*'s costs and expenses includes the 10u of nondeductible exploration expenses. Thus, under the safe harbor method, *A*'s qualifying amount with respect to the levy is 33.33u ((120u–30u–40u) x .40/(1–.40)). *A*'s specific economic benefit amount is 6.67u (*A*'s actual payment amount (40u) less *A*'s qualifying amount (33.33u). Under paragraph (a) of this section, this 6.67u is considered to be consideration paid by *A* for the right to extract mineral K. Pursuant to paragraph (b) of this section, this amount is characterized according to the nature of *A*'s transactions with country X and its instrumentality and of the specific economic benefit received (the right to extract mineral K), as an additional royalty or other business expense paid or acrrued by *A* and is so treated for all purposes of Chapter 1 of the Internal Revenue Code, except that if an allowance for percentage depletion is allowable to *A* under sections 611 and 613 with respect to *A*'s interest in mineral K, the determination whether this 6.67u is tax or royalty for purposes of computing the amount of such allowance shall be made under sections 611 and 613 without regard to the determination that under the safe harbor formula such 6.67u is not tax for purposes of section 901 or 903.

Example (2). Under a levy of country Y called the country Y income tax, each corporation incorporated in country Y is required to pay to country Y a percentage of its worldwide income. The applicable percentage is 40 percent of the first 1,000u (units of country Y currency) of income and 50 percent of income in excess of 1,000u. Income for purposes of the levy is computed by deducting from gross income specified types of expenses and specified allowances for capital expenditures. The expenses for which deductions are permitted differ depending on the type of business in which the corporation subject to the levy is engaged, *e. g.*, a deduction for interest paid to

a related party is not allowed for corporations engaged in enumerated types of activities. In addition, carryover of losses from one taxable period to another is permitted for corporations engaged in specified types of activities, but not for corporations engaged in other activities. By its terms, the foreign levy makes no distinction between dual capacity taxpayers and other persons. It is established that in practice the differences in the base of the country Y income tax (*e. g.*, the lack of a deduction for interest paid to related parties for some coporations subject to the levy and the lack of a carryover provision for some corporations subject to the levy) apply to both dual capacity taxpayers and other persons, but it is not established that in practice the 50 percent rate does not apply only to dual capacity taxpayers. By reason of such higher rate, application of the country Y income tax to dual capacity taxpayers is different in practice from application of the country Y income tax to other persons subject to it. The country Y income tax as applied to dual capacity taxpayers is therefore a separate levy from the country Y income tax as applied to other corporations incorporated in country Y.

B is a corporation incorporated in country Y that is engaged in construction activities in country Y. *B* has a contract with the government of country Y to build a hospital in country Y for a fee. Accordingly, *B* is a dual capacity taxpayer. *B* has validly elected the safe harbor method for country Y for 1985. In 1985, as determined in accordance with the country Y income tax as applied to *B*, *B* has gross receipts of 10,000u, deducts 6,000u of costs and expenses, and pays 1900u {(1,000u x 40%) + (3,000u x 50%)} to country Y pursuant to the levy.

It is assumed that *B* has established that the country Y income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2 (a) (1) and is the general tax. It is further assumed that *B* has demonstrated that all of the criteria of section 901 are satisfied with respect to the country Y income tax as applied to dual capacity taxpayers, except for the determination of the distinct element of such levy that is a tax and of *B*'s qualifying amount with respect to that levy, and therefore that the country Y income tax as applied to dual capacity taxpayers is a qualifying levy.

In applying the safe habor formula, in acordance with paragraph (e)(3), the 50 percent rate is not used becasuse it does not apply in practice to persons other than dual capacity taxpayers. The next lowest rate of the general tax that does apply in practice to such persons, 40 percent, is used. Accordingly, under the safe harbor formula, *B*'s qualifying amount with respect to the levy is 1400u {(10,000u–6000u–1900u) x .40/(1–.40)}. *B*'s specific economic benefit amount is 500u (B's actual payment amount (1900u) less *B*'s qualifying amount (1400u)). Pursuant to paragraph (b) of this section, *B*'s specific economic benefit amount is characterized according to the nature of *B*'s transactions with country Y and of the specific economic benefit received, as a reduction of *B*'s proceeds of its contract with country Y; and this amount is so treated for all purposes of chapter 1 of the Code, including the computation of *B*'s accumulated profits for purposes of section 902.

Example (3). The facts are the same as in example (2), with the following additional facts: The contract between *B* and country Y is a cost plus contract. One of the costs of the contract which the country Y is required to pay or for which it is required to reimburse *B* is any tax of country Y on *B*'s income or receipts from the contract. Instead of reimbursing *B* therefor, country Y agrees with *B* to assume any such tax liability. Under country Y tax law, *B* is not considered to have additional income or receipts by reason of country Y's assumption of *B*'s country Y tax liability. In 1985, *B*'s gross receipts of 10,000u include 3000u from the contract, and its costs and expenses of 6,000u include 2000u attributable to the contract. *B*'s other gross receipts and expenses do not related to any transaction in which B receives a specific economic benefit. In accordance with the contract, country Y, and not *B*, is required to bear the amount of *B*'s country Y income tax liability on *B*'s 1000u (3000u–2000u) income from the contract. In accordance with the contract *B* computes its country Y income tax without taking this 1000u into account and therefore pays 1400u {(1000u x 40%) + (2000u x 50%)} to country Y pursuant to the levy.

In accordance with § 1.901–2(f)(2)(i), the country Y income tax which country Y is, under the contract, required to bear is considered to be paid by country Y on behalf of *B*. *B*'s proceeds of its contract, for all purposes of Chapter 1 of the Code (including the computation of *B*'s accumulated profits for purposes of section 902), therefore, are increased by the additional 500u (1900u computed as in example (2) less 1400u as computed above) of B's liability under the country Y income tax that is assumed by country Y and such 500u is considered to be paid pursuant to the levy by country Y on behalf of *B*. In applying the safe harbor formula, therefore, the computation is exactly as in example (2) and the results are the same as in example (2).

Example (4). Country L issues a decree (the "April 11 decree"), in which it states it is exercising its tax authority to impose a tax on all corporations on their 'net income' from country L. "Net income" is defined as actual gross receipts less all expenses attributable thereto, except that in the case of income from extraction of petroleum, gross receipts, are defined as 105 percent of actual gross receipts, and no deduction is allowed for interest incurred on loans whose proceeds are used for exploration for petroleum. Under the April 11 decree, wages paid by corporations subject to the decree are deductible in the year of payment, except that corporations engaged in the extraction of petroleum may deduct such wages only by amortization over a 5-year period and, to the extent such wages are paid to officers, they may be deducted only by amortization over a period of 50 years. The April 11 decree permits related corporations subject to the decree to file consolidated returns in which net income and net losses of related corporations offset each other in computing net income for purposes of the April 11 decree, except that corporations engaged in petroleum exploration or extraction activities are not eligible for inclusion in such a consolidated return. The law of country L does not require separate entities to carry on separate activities in connection with exploring for or extracting petroleum. Net losses of a taxable year may be carried over for 10 years to offset income, except that no more than 25% of net income (before deducting the loss carryover) in any such future year may be offset by a carryover of net loss, and, in the case of any corporation engaged in exploration or extraction of petroleum, losses incurred prior to such a corporation's having net income from production may be carried forward for only 8 years and no more than 15% of net income in any such future year may be offset by such a net loss. The rate to be paid under the April 11 decree is 50% of net income (as defined in the levy), except that if net income exceeds 10,000u (units of country L currency), the rate is 75% of the corporation's net income (including the first 10,000u thereof). In practice, no corporations other than income engaged in extraction of petroleum have net income in excess of 10,000u. All petroleum resources of country L are owned by the government of the country L, whose petroleum ministry licenses corporations to explore for and extract petroleum in consideration for payment of royalties as petroleum is produced.

J is a U.S. corporation that is engaged in country L in the exploration and extraction of petroleum and therefore is a dual capacity taxpayer. *J* has validly elected the safe harbor method for country L for the year 1983, the year that *J* commenced activities in country L and has not revoked such election. For the years 1983 through 1986, *J*'s gross receipts, deductions and net income before application of the carryover provisons, determined in accordance with the April 11 decree, are as follows:

Year	Gross receipts (105 percent of actual gross receipts)	Deductions other than wages	Wages paid other than to officers (amortizable at 20 percent)	Wages paid to officers (amortizable at 2 percent)	Nondeductible exploration interest expense	Net income (loss) (B-C-amortization of cumulative D-amortization of cumulative E)
A.	B.	C.	D.	E.	F.	G.
1983	0	13,000u	100u	50u	1,000u	(13,021u)
1984	0	17,000u	100u	50u	2,800u	(17,042u)
1985	42,000u	15,000u	100u	50u	2,800u	26,937u

Year	Gross receipts (105 percent of actual gross receipts)	Deductions other than wages	Wages paid other than to officers (amortizable at 20 percent)	Wages paid to officers (amortizable at 2 percent)	Nondeductible exploration interest expense	Net income (loss) (B-C-amortization of cumulative D-amortization of cumulative E)
A.	B.	C.	D.	E.	F.	G.
1986	105,000u	20,000u	100u	50u	2,800u	84,915u

After application of the carryover provisions, *J*'s net income and actual payment amounts pursuant to the April 11 levy are as follows:

Year	Net income (loss)	Actual payment amount (I x 75 percent)
H.	I.	J.
1983	(13,021u)	0
1984	(17,042u)	0
1985	22,896u	17,172u
1986	72,179u	54,134u

Pursuant to paragraph (a)(1) of this section, the April 11 decree as applied to corporations engaged in the exploration or extraction of petroleum in country L is a separate levy from the April 11 decree as applied to all other corporations. *J* establishes that the April 11 decree, as applied to such other corporations, is a income tax within the meaning of § 1.901–2(a)(1) and that the decree as so applied is the general tax.

The April 11 decree as applied to corporations engaged in the exploration or extraction of petroleum in country L does not meet the gross receipts requirement of § 1.901–2(b)(3); therefore, irrespective of whether it meets the other requirements of § 1.901–2(b)(1), it is not an income tax within the meaning of § 1.901–2(a)(1). However, the April 11 decree as applied to such corporations is a qualifying levy because *J* has demonstrated that all of the criteria of section 903 are satisfied with respect to the April 11 decree as applied to such corporations, except for the determination of the distinct element of such levy that imposes a tax and of *J*'s qualifying amount with respect thereto.

In applying the safe harbor formula, in accordance with paragraph (e)(2), gross receipts are computed by reference to the general levy, and thus are 100%, not 105%, of actual gross receipts. Similary, costs and expenses include exploration interest expense. In accordance with paragraph (e)(2)(i) of this section the difference between the general tax and the qualifying levy in the timing of the deduction for wages, other than wages of officers, is not considered to increase the liability of dual capacity taxpayers because the general tax would not have failed to be an income tax within the meaning of § 1.901–2(a)(1) if it had provided for 5-year amortization of such wages instead of for current deduction. *See*, § 1.901–2(b)(4)(i). However, amortization of wages paid to officers over a 50-year period is such a deferred recovery of such wages that it effectively is a denial of the deduction of the excess of such wages paid in any year over the amortization of such cumulative wages permitted in such year. See § 1.901–2(b)(4)(i). The different treatment of wages paid to officers under the general tax and the qualifying levy is thus not merely a difference in timing within the meaning of paragraph (e)(2)(i) of this section. Accordingly, the difference between the amount of wages paid by *J* to officers in any year and *J*'s deduction (in computing actual tax amount) for amortization of such cumulative wages allowed in such year is, pursuant to paragraph (e)(2) of this section, treated as a cost and expense in computing *J*'s qualifying amount for such year with respect to the April 11 decree. The differences in the consolidation and carryover provisions between the general tax and the qualifying levy are of the types described in paragraph (e)(2)(ii) of this section and, pursuant to paragraph (b)(4)(ii) and (b)(4)(iii) of § 1.901–2, the general tax would not fail to be an income tax within the meaning of § 1.901–2(a)(i) even if it contained the consolidation and carryover provisions of the qualifying levy. Thus, such differences are not considered to increase the liability of dual capacity taxpayers pursuant to the qualifying levy as compared to the general tax liability of persons other than dual capacity taxpayers.

Accordingly, in applying the safe harbor formula to the qualifying levy for 1985 and 1986, gross receipts and costs and expenses are computed as follows:

Gross receipts

1985: 42,000u x (100/105) = 40,000u
1986: 105,000u x (100/105) = 100,000u

COSTS AND EXPENSES

Item	1985	1986
1. Deductions other than wages (column C in the preceding chart)	15,000u	20,000u
2. Amortization of cumulative wages paid in 1983 and thereafter other than to officers	60u	80u
3. Deduction of wages to officers paid in current year, instead of amortization allowed in current year of such cumulative wages paid in 1983 and thereafter	50u	50u
4. Deduction of exploration interest expense	2,800u	2,800u
5. Costs and expenses before carryover of net loss (sum of lines 1 through 4)	17,910u	22,930u
6. Recalculation of loss carryover by recalculating 1983 and 1984 net income (loss) to reflect current deduction of wages to officers and exploration interest expense: 1983 adjusted net loss carryover: (13,021u) + (49u) + (100u) = (14,070u); 1984 adjusted net loss carryover: (17,042u) + (48u) + (2800u) = (19,890u)		
7. Recalculation of limitation on use of net loss carryover deduction:		
Gross receipts	40,000u	100,000u
Less costs and expenses	(17,910u)	(22,930u)
Total	22,090u	77,070u
Times 15 percent limitation	3,314u	11,561u
8. Costs and expenses including net loss carryover deduction (line 5 plus line 7)	21,224u	34,491u

In years after 1986, costs and expenses for purposes of determining the qualifying amount would reflect net loss carryforward deductions based on the recomputed losses carried forward from 1983 and 1984 (14,070u and 19,890u, respectively) less the amounts thereof that were utilized in determining costs and expenses for 1985 and 1986 (3,314u and 11,561u, respectively). The 1983 and 1984 loss carryforwards would be considered utilized in accordance with the order of priority in which such losses are utilized under the terms of the qualifying levy.

In applying the safe harbor formula, the tax rate to be used, in accordance with paragraph (e)(3) of this section is .50.

Accordingly, under the safe harbor method, *J*'s qualifying amounts with respect to the April 11 decree for 1985 and 1986 are computed as follows:

1985: (40,000u–21,224u–17,172u) × .50/(1–.50) = 1604u

1986: (100,000u–34,491u–54,134u) × .50/(1–.50) = 11,375u

Under the safe harbor method *J*'s qualifying amounts with respect to the April 11 decree for 1985 and 1986 are thus 1604u and 11,375u, respectively; and its specific economic benefit amounts are 15,568u (17,172u–1604u) and 42,759u (15,134u–11,375u), respectively. Pursuant to paragraph (b) of this section, *J*'s specific economic benefit amounts are characterized according to the nature of *J*'s transactions with country L and of the specific economic benefit received by *J* as additional royalties paid to country with respect to the petroleum extracted by *J* in country L in 1985 and 1986, and these amounts are so treated for all purposes of Chapter 1 of the Code.

Example (5). Country E, which has no generally imposed income tax, imposes a levy called the country E income tax on corporations carrying on the banking business through a branch in country E and on corporations engaged in the extraction of petroleum in country E. All of the petroleum resources of country E are owned by the government of country E, whose petroluem ministry licenses corporations to explore for the extract petroleum in consideration of

payment of royalties as petroleum is extracted. The base of Country E income tax is a corporation's actual gross receipts from sources in country E less all expenses attributable, or reasonable principles, to such gross receipts; the rate of tax is 29%.

A is a U.S. corporation that carries on the banking business through a branch in country E. *B* is a U.S. corporation (unrelated to *A*) that is engaged in the extraction of petroleum in country E. In 1983 *A* receives interest on loans it has made to 160 borrowers in country E, seven of which are agencies and instrumentalities of the government of country E.

A and *B* are dual capacity taxpayers. Each of them has validly elected the safe harbor method for country E for 1983. *A* demonstrates that the country E income tax as applied to banks that make loans to the government of country E (dual capacity taxpayers) is not different by its terms or in practice from the country E income tax as applied to banks that are not dual capacity taxpayers. *A* has therefore established pursuant to paragraph (a)(1) of this section and § 1.901–2(d) that the country E income tax as applied to corporations carrying on the banking business through branches in country E and that make loans to the government of country E (dual capacity taxpayers) and the country E income tax as applied to persons other than dual capacity taxpayers (*i.e.*, such corporations that do not make loans to the government of country E) are together a single levy. *A* establishes that such levy is an income tax within the meaning of § 1.901–2(a)(1). In accordance with paragraph (a)(1) of this section, no portion of the amount paid by *A* pursuant to such levy is considered to be paid in exhange for a specific economic benefit. Thus, the entire amount paid by *A* pursuant to this levy is an amount of income tax paid.

B does not demonstrate that the country E income tax as applied to corporations engaged in the extration of petroleum in country E (dual capacity taxpayers) is not different by its terms or in practice from the country E income tax as applied to persons other than dual capacity taxpayers (*i.e.* banks that are not dual capacity taxpayers). Accordingly, pursuant to paragraph (a)(1) of this section and § 1.901–2(d), the country E income tax as applied to corporations engaged in the extraction of petroleum in country E is a separated levy from the country E income tax as applied to other persons.

B demonstrates that all of the criteria of section 901 are satisfied with respect to the country E income tax as applied to corporations engaged in the exploration of petroleum in country E, except for the determination of the distinct element of such levy that imposes a tax and of *B*'s qualifying amount with respect to the levy. Because country E has no generally imposed income tax, however, *B*'s qualifying amount under the safe harbor formula is 0, and its specific economic benefit amount under the safe harbor formula is identical to its actual payment amount. In accordance with paragraph (d)(4)(iv) of this section, if, within a reasonable time after the determination that *B*'s qualifying amount is zero, *B* applies for consent to revoke its safe harbor election for country E for 1983, the Comissioner will normally consent to such revocation. Upon obtaining such consent, *B* may apply the facts and circumstances method of paragraph (c)(2) of this section to country E for 1983.

(f) *Effective date.* The effective date of this section is as provided in § 1.901–2(h).

Par. 3. A new § 1.903–1 is added immediately after § 1.902–2 to read as follows:

§ 1.903–1 Taxes in lieu of income taxes.

(a) *In general.* Section 903 provides that the term "income, war profits, and excess taxes" shall include a tax paid in lieu of a tax on income, war profits, or excess profits ("income tax") otherwise generally imposed by any foreign country. For purposes of this section and sections 1.901–2 and 1.901–2A, such a tax is referred to as a "tax in lieu of an income tax"; and the terms "paid" and "foreign country" are defined in § 1.901–2 (g). A foreign levy (within the meaning of § 1.901–2 (g) (3)) is a tax in lieu of an income tax if and only if—

(1) It is a tax within the meaning of § 1.901–2 (a)(2); and

(2) It meets the substitution requirement as set forth in paragraph (b) of this section.

The foreign country's purpose in imposing the foreign tax (*e.g.*, whether it imposes the foreign tax because of administrative difficulty in determining the base of the income tax otherwise generally imposed) is immaterial. It is also immaterial whether the base of the foreign tax bears any relation to realized net income. The base of the tax may, for example, be gross income, gross receipts or sales, or the number of units produced or exported. Determinations of the amount of a tax in lieu of an income tax that is paid by a person and determinations of the person by whom such tax is paid are made under § 1.901–2 (e) and (f), respectively, substituting the phrase "tax in lieu of an income tax" for the phrase "income tax" wherever the latter appears in those sections. Section 1.901–2A contains additional rules applicable to dual capacity taxpayers (as defined in § 1.901–2 (a) (2) (ii) (A)). The rules of this section are applied independently to each separate levy (within the meaning of §§ 1.901–2 (d) and 1.901–2A (a)) imposed by the foreign country. Except as otherwise provided in paragraph (b) (2) of this section, a foreign tax either is or is not a tax in lieu of an income tax in its entirety for all persons subject to the tax.

(b) *Substitution.—(1) In general.* A foreign tax satisfies the substitution requirement if the tax in fact operates as a tax imposed in substitution for, and not in addition to, an income tax or a series of income taxes otherwise generally imposed. However, not all income derived by persons subject to the foreign tax need be exempt from the income tax. If, for example, a taxpayer is subject to a generally imposed income tax except that, pursuant to an agreement with the foreign country, the taxpayer's income from insurance is subject to a gross receipts tax and not to the income tax, then the gross receipts tax meets the substitution requirement notwithstanding the fact that the taxpayer's income from other activities, such as the operation of a hotel, is subject to the generally imposed income tax.

(2) *Soak-up taxes.* A foreign tax satisfies the substitution requirement only to the extent that liability for the foreign tax is not dependent (by its terms or otherwise) on the availability of a credit for the foreign tax against income tax liability to another country. If without regard to this paragraph (b) (2), a foreign tax satisfies the requirement of paragraph (b) (1) of this section (including for this purpose any foreign tax that both satisfies such requirement and also is an income tax within the meaning of § 1.901–2 (a) (1)), liability for the foreign tax is dependent on the availability of a credit for the foreign tax against income tax liability to another country only to the extent of the lesser of—

(i) The amount of foreign tax that would not be imposed on the taxpayer but for the availability of such a credit to the taxpayer (within the meaning of § 1.901–2 (c)), or

(ii) The amount, if any, by which the foreign tax paid by the taxpayer exceeds the amount of foreign income tax that would have been paid by the taxpayer if it had instead been subject to the generally imposed income tax of the foreign country.

(3) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples:

Example (1). Country X has a tax on realized net income that is generally imposed except that nonresidents are not subject to that tax. Nonresidents are subject to a gross income tax on income from country X that is not attributable to a trade or business carried on in country X. The gross income tax imposed on nonresidents satisfies the substitution requirement set forth in this paragraph (b). See also examples (1) and (2) of § 1.901–2(b)(4)(iv).

Example (2). The facts are the same as in example (1), with the additional fact that payors located in country X are required by country X law to withhold the gross income

tax from payments they make to nonresidents, and to remit such withheld tax to the government of country X. The result is the same as in example (1).

Example (3). Country X has a tax that is generally imposed on the realized net income of nonresident corporations that is attributable to a trade or business carried on in country X. The tax applies to all nonresident corporations that engage in business in country X except for such corporations that engage in contracting activities, each of which is instead subject to two different taxes. The taxes applicable to nonresident corporations that engage in contracting activities satisfy the substitution requirement set forth in this paragraph (b).

Example (4). Country X imposes both an excise tax and an income tax. The excise tax, which is payable independently of the income tax, is allowed as a credit against the income tax. For 1983 *A* has a tentative income tax liability of 100u (units of country X currency) but is allowed a credit for 30u of excise tax that it has paid. Pursuant to paragraph (e)(4)(i) of § 1.90–2, the amount of excise tax *A* has paid to country X is 30u and the amount of income tax *A* has paid to country X is 70u. The excise tax paid by *A* does not satisfy the substitution requirement set forth in this paragraph (b) because the excise tax is imposed on *A* in addition to, and not in subsititution for, the generally imposed income tax.

Example (5). Pursuant to a contract with country X, *A*, a domestic corporation engaged in manufacturing activities in country X, must pay tax to country X equal to the greater of (i) 5u (units of country X currency) per item produced, or (ii) the maximum amount creditable by *A* against its U.S. income tax liability for that year with respect to income from its country X operations. Also pursuant to the contract, *A* is exempted from country X's otherwise generally imposed income tax. *A* produces 16 items in 1984 and the maximum amount creditable by *A* against its U.S. income tax liability for 1984 is 125u. If *A* had been subject to country X's otherwise generally imposed income tax it would have paid a tax of 150u. Pursuant to paragraph (b)(2) of this section, the amount of tax paid by *A* that is dependent on the availability of a credit against income tax of another is 0 (lesser of (i) 45u, the amount that would not be imposed but for the availability of a credit (125u − 80u) or (ii) 0, the amount by which the contractual tax (125u) exceeds the generally imposed income tax (150u)).

Example (6). The facts are the same as in example (5) except that, of the 150u *A* would have paid if it had been subject to the otherwise generally imposed income tax, 60u is dependent on the availability of a credit against income tax of another country. The amount of tax actually paid by *A* (*i.e.*, 125u) that is dependent on the availability of a credit against income tax of another country is 35u (lesser of (i) 45u, computed as in example (5), or (ii) 35u, the amount by which the contractual tax (125u) exceeds the amount *A* would have paid as income tax if it had been subject to the otherwise generally imposed income tax (90u, *i.e.*, 150u − 60u).

(c) *Effective date.* The effective date of this section is as provided in § 1.90–2(h).

Temporary Income Tax Regulations Relating to Creditability of Foreign Taxes

PART 4—[AMENDED]

§§ 4.901–2 and 4.903–1 [Removed]

Par. 4. Sections 4.901–2 and 4.903–1 of 26 CFR Part 4 are removed.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-8703 Filed 4-1-83; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Administrative Control of Funds

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: 31 U.S.C. 1514 requires the head of each executive agency to prescribe, by regulation, a system of administrative controls designed to restrict obligations or expenditures of each fund or appropriation to the amount of apportionments or reapportionments of the appropriation. These new regulations will provide for the administrative control of all funds within the Veterans Administration.

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

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis Bowser, (202) 389–2311.

SUPPLEMENTARY INFORMATION: A system of administrative controls (approved by the Office of Management and Budget), designed to restrict obligations or expenditures of each fund or appropriation to the amount of apportionments or reapportionments, has been in effect internally in the VA since establishment of this requirement through amendment of Section 3679 of the Revised Statutes by Section 1211 of the General Appropriation Act of 1951.

In accordance with an Office of Management and Budget directive dated June 28, 1977, we revised our Administrative Control of Funds procedures to reflect the 1976 revision of OMB Circular A–34. After receiving OMB approval of our package, we incorporated the revised Administrative Control of Funds into our internal manual on Accounting Principles, Standards and General Requirements.

However, 31 U.S.C. 1514 requires that these administrative controls be published in the **Federal Register** and codified in Title 38 of the Code of Federal Regulations. Therefore, we are now proposing new regulations to comply with 31 U.S.C. 1514.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analysis requirements of Sections 603 and 604. The reason for this certification is that the proposed rules affect only VA employees. These proposed rules have also been reviewed under E.O. 12291 and have been determined to be nonmajor because they only affect internal VA administrative policies and procedures and do not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State and local government agencies, or geographic regions. There is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Employment, Government employees, Government property.

Approved: March 29, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 1, General, is amended by adding an undesignated center heading and new §§ 1.670 through 1.673 to read as follows:

PART 1—GENERAL

Administrative Control of Funds

Sec.

Administrative Control of Funds

§ 1.670 Purpose.

The following regulations establish a system of administrative controls for all appropriations and funds available to the Veterans Administration to accomplish the following purposes:

(a) Establish an administrative subdivision of controls to restrict obligations and expenditures against each appropriation or fund to the amount of the apportionment or the reapportionment; and

(b) Fix responsibility for the control of appropriations or funds to high level officials who bear the responsibility for apportionment or reapportionment control. (31 U.S.C. 1514)

§ 1.671 Definitions.

For the purpose of §§ 1.670 through 1.673, the following definitions apply:

(a) *Administrative subdivision of funds.* An administrative subdivision of funds is any administrative subdivision of an appropriation or fund which makes funds available in a specified amount for the purpose of controlling apportionments or reapportionments.

(b) *Allotment.* An allotment is an authorization by the Assistant Deputy Administrator for Budget and Finance to department and staff office heads (allottees) to incur obligations within specified amounts, during a specified period, pursuant to an Office of Management and Budget apportionment or reapportionment action. The creation of an obligation in excess of an allotment is a violation of the administrative subdivision of funds.

(c) *Allowance.* An allowance is a subdivision below the allotment level, and is a guideline which may be issued by department or staff office heads (allottees) to facility directors and other officials, showing the expenditure pattern or operating budget they will be expected to follow in light of the program activities contemplated by the overall VA budget or plan of expenditure. The creation of an obligation in excess of an allowance is not a violation of the administrative subdivision of funds. (31 U.S.C. 1514)

§ 1.672 Responsibilities.

(a) The issuance of an allotment to the department and staff office heads (allottees) is required and is the responsibility of the Assistant Deputy Administrator for Budget and Finance. The sum of such allotments shall not be in excess of the amount indicated in the apportionment or reapportionment document.

(b) The issuance of an allowance is discretionary with department or staff office heads (allottees), as an allowance is merely a management device which allottees may utilize in carrying out their responsibilities. Allottees are responsible for keeping obligations within the amounts of their allotments, whether allowances are issued or not.

(c) The Assistant Deputy Administrator for Budget and Finance is responsible for requesting apportionments and reapportionments from the Office of Management and Budget. Department and staff heads shall promptly request that an appropriation or fund be reapportioned if feasible whenever it appears that obligations may exceed the level of the apportionment. (31 U.S.C. 1514)

§ 1.673 Responsibility for violations of the administrative subdivision of funds.

(a) In the event an allotment or an apportionment is exceeded except in the circumstances described in paragraph (b) of this section, the following factors will be considered in determining which official, or officials, are responsible for the violation.

(1) Knowledge of circumstances which could lead to an allotment or apportionment being exceeded;

(2) Whether the official had received explicit instructions to continue or cease incurring obligations;

(3) Whether any action was taken in contravention of or with disregard for, instructions to monitor obligations incurred;

(4) Whether the official had the authority to curtail obligations by directing a change in the manner of operations of the department or staff office; or

(5) Any other facts which tend to fix the responsibility for the obligations which resulted in the allotment or apportionment being exceeded.

(b) In the event that the sum of the allotments made in a particular fiscal year exceeds the amount apportioned by the Office of Management and Budget, and the apportionment is subsequently exceeded because of this action, the official who made the excess allotments will be the official responsible for the violation. (31 U.S.C. 1514)

[FR Doc. 83-8705 Filed 4-4-83; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 10

Proposed International Express Mail Service To Malaysia and Qatar

AGENCY: Postal Service.

ACTION: Proposed International Express Mail Service to Malaysia and Qatar.

SUMMARY: Pursuant to agreements with the postal administrations of Malaysia and Qatar, the Postal Service proposes to begin International Express Mail Service with Malaysia and Qatar at postage rates indicated in the tables below. The proposed services are scheduled to begin on June 10, 1983.

DATE: Comments must be received on or before May 6, 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, S.W., 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 opportunity for submission of comments on international service, and the provisions of the Administration 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 Malaysia and Qatar at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

MALAYSIA—INTERNATIONAL EXPRESS MAIL

Up to and including Pounds	Rate
Custom Designed Service: [1]	
1	$29.00
2	33.50
3	38.00

MALAYSIA—INTERNATIONAL EXPRESS MAIL—Continued

Up to and including Pounds	Rate
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
On Demand Service: [2]	
1	21.00
2	25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50

[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.

QATAR—INTERNATIONAL EXPRESS MAIL

Up to and including Pounds	Rate
Custom Designed Service: [1] [2]	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60

QATAR—INTERNATIONAL EXPRESS MAIL—Continued

Up to and including Pounds	Rate
30	135.30
31	139.00
32	142.70
33	146.40
34	150.10
35	153.80
36	157.50
37	161.20
38	164.90
39	168.60
40	172.30
41	176.00
42	179.70
43	183.40
44	187.10
On Demand Service: [2]	
1	20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20
28	119.90
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40
34	142.10
35	145.80
36	149.50
37	153.20
38	156.90
39	160.60
40	164.30
41	168.00
42	171.70
43	175.40
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 the 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. 83-8708 Filed 4-4-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW400DC; A-4-FRL 2313-5]

Proposed Revision to District of Columbia State Implementation Plan Controlling Lead Emissions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The District of Columbia submitted a State Implementation Plan (SIP) for the control of lead emissions. The plan submitted by the District provides for attainment and maintenance of the national ambient air quality standards (NAAQS) for lead, including control of lead emissions from new major stationery sources. EPA proposes to approve the District's lead SIP, as the plan appears to meet all of the necessary requirements of the Clean Air Act and 40 C.F.R. Part 51.

DATE: EPA must receive comments on or before May 5, 1983.

ADDRESSES: Send any comments to: Henry J. Sokolowski, P. E., Chief, MD-DE-DC Metro Section (3AW12), Air Programs & Energy Branch, Air & Waste Management Division, U.S. Environmental Protection Agency, 6th & Walnut Sts., Philadelphia, PA 19106.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region III, 6th & Walnut Sts., Philadelphia, PA 19106

District of Columbia Department of Environmental Services, 5010 Overlook Ave., S.W., Washington, D.C. 20032

FOR FURTHER INFORMATION CONTACT: Harold A Frankford (3AW12) at the above listed EPA address (telephone no. 215/597-8392) Ref: AW400DC.

SUPPLEMENTARY INFORMATION: On October 7, 1982, the District of Columbia (DC) submitted to EPA a State Implementation Plan (SIP) for maintaining the national ambient air quality standard (NAAQS) for lead (Pb). The DC lead SIP contains a statement that the national ambient air quality standard (NAAQS) for lead (1.5 micrograms per cubic meter (ug/m^3) averaged over a calendar quarter) has been attained as of October, 1982. The District certified that a public hearing on this SIP was held on August 24, 1982, as required by 40 CFR Part 51.4.

The DC lead SIP contains the following elements:

(1) A description of the District's ambient air lead monitoring network.

(2) Ambient air quality data for the years 1976 through 1981 (24 quarters).

(3) An emissions inventory for lead.

(4) A modeling analysis which demonstrates attainment of the lead standard by 1982.

(5) D.C. Regulation 8–2:720 which covers permits for new major stationary sources of lead emissions.

Monitoring Program

The SIP indicates that the District initially selected two sites for inclusion in the national air monitoring system (NAMS): a microscale site at Cleveland Park Library and a neighborhood scale site at Takoma Elementary School. However, these sites were found not to be approvable under EPA's monitoring site criteria issued on September 3, 1981 (46 FR 44169). The District has subsequently begun operation of a middle scale lead monitoring site at the Chevy Chase Library, which EPA has determined to be approvable as a Category A NAMS site. The District is presently investigating a site at Kenilworth Avenue and I–295 as a neighborhood scale site, which EPA has preliminarily determined to be approvable. The District should revise its SIP to include these locations as NAMS sites. Although some sites had recorded violations of the lead NAAQS between 1976 and 1979, the District has submitted ambient air quality data showing no violations of the lead standards during 1980 and 1981. The peak ambient concentration level during this time was 3.33 $\mu g/m^3$, quarterly average recorded at the Parkside monitor in 1978.

Emissions Inventory

According to the emissions inventory provided by DC as part of this SIP, most of the District's lead emissions come from mobile sources. In order to calculate mobile source emissions of lead, the District used information generated by the Metropolitan Washington Council of Governments (COG) with respect to vehicle mix, average vehicle speed, and vehicle miles travelled (VMT). The vehicle mix for both 1978 and 1982 was assumed to by 88% light-duty vehicles, 8% light-duty trucks, 3% heavy-duty gasoline trucks and 1% heavy-duty diesel trucks. The average vehicle speed for both 1978 and 1982 was assumed to be 20 miles per hour (mph) for all motor vehicles, and the VMT growth between 1978 and 1982 was assumed to be 2.0%. As of 1978, mobile sources emitted 344 tons per year of lead.

The District's lead SIP also contains an inventory of stationary source emissions. The District's municipal incinerator is the only stationary source located within District boundaries. The remainder of stationary source lead emissions are from area sources. The District estimated its annual stationary source emissions during 1978 to be 11.5 tons, and assumed that stationary source lead emissions would be relatively constant between 1978 and 1982.

Control Strategies

The District describes in its SIP a series of control strategies designed to reduce lead emissions and ensure attainment of the lead NAAQS by 1982. These strategies consist mainly of federal regulations with respect to reduction of lead content in gasoline, increased use of lead-free gasoline, and improved fuel economy. The District has also begun implementation of its vehicle inspection and maintenance (I/M) program as of January 1, 1983. This program, according to the District, will serve to reduce vehicular lead emissions by improving fuel economy and decreasing fuel switching practices. However, the District has not quantified the lead emission reduction benefits of this strategy nor has it been approved as part of the District's carbon monoxide/ozone 1982 SIP revision. Therefore, EPA is taking no action on this strategy at this time.

The District's control strategy for controlling lead emissions from stationary sources consists of Regulation 8–2:720, which is the District regulation requiring permits for all new stationary sources. The District SIP contains no other stationary source control regulations.

Modeling Analysis

In order to predict ambient lead concentrations for 1982, the District used the rollback technique, which assumes that ambient lead concentrations will be reduced between 1978 and 1982 in proportion to the reductions in lead emissions. Based on the stationary and mobile source emissions factors and the effect of the federal mobile source control measures, the District estimated annual lead emissions for 1982 to be 141 tons. When applying a proportional rollback of air quality concentrations to emissions levels, the District predicted the peak average quarterly concentration level at the Parkside monitor to be 1.45 $\mu g/m^3$. In addition, the District's air quality data included with this SIP shows no violations of the lead NAAQS at the Parkside monitor or any other monitor located in the District during 1980 or 1981.

EPA Evaluation/Proposed Action

EPA has reviewed the District of Columbia's lead SIP and concludes that the DC DES followed the proper procedures, as outlined in the Clean Air Act and 40 CFR 51.81 through 51.88, in determining that current ambient concentrations of lead in the District are below the NAAQS. EPA considers District Regulation 8–2:720 to be adequate for controlling new major stationary sources of lead. Therefore, EPA proposes to approve the District of Columbia's lead SIP.

EPA is soliciting public comments on the District of Columbia's lead SIP. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the District's lead SIP will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

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

Under 5 U.S.C. Section 605(b), the Administrator has determined that this action will not have a significant impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

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

Authority: Sec. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

Dated: February 16, 1983.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 83-8880 Filed 4-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[SW-1-FRL 2339-1]

Hazardous Waste Management Program; Connecticut; Application for Interim Authorization, Phase II, Components A, B & C

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA is today announcing the availability for public review of the Connecticut application for Phase II, Components A, B & C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that EPA will hold a public hearing on the application.

DATES: A public hearing is scheduled for May 13, 1983, at 10:00 a.m. All written comments on the Connecticut Interim Authorization Application must be received by the close of business on May 20, 1983.

ADDRESSES: EPA will hold a public hearing on Connecticut's Application for Interim Authorization on May 13, 1983, at 10:00 a.m. in the State Office Building, Room 565A, 165 Capitol Avenue, Hartford, Connecticut 06106.

Written comments on the application and requests to speak at the hearing should be sent to: William R. Torrey III, Connecticut State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, Room 1903, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–4448.

Copies of the Connecticut Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying by the public: Department of Environmental Protection, Hazardous Waste Section, Room 9, 122 Washington Street, Hartford, Connecticut 06106, Telephone (203) 566–4869.

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–5791.

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William R. Torrey III, Connecticut State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, Room 1903 John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–4448.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Connecticut received interim authorization for Phase I on April 21, 1982.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availablity of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register**, July 26, 1982 (47 FR 32274), contains standards for permitting hazardous waste land disposal facilities.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, as amended by 47 FR 32377.

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment.

Lists of Subjects in 40 CFR Part 123

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

Dated: March 28, 1983.

Paul G. Keough,

Acting Deputy Regional Administrator, Region I.

[FR Doc. 83-8801 Filed 4-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 465

[WH-FRL 2338-4]

Canmaking Point Source Subcategory Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On February 10, 1983, EPA Proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in canmaking operations (48 FR 6268). EPA is extending the period for comment on the proposed regulation from April 11, 1983 to May 20, 1983.

DATE: Comments on the proposed regulation for the canmaking subcategory of the coil coating category must be submitted to EPA by May 20, 1983.

ADDRESSES: Send comments to May L. Belefski, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., 20460, Attention: EGD Docket Clerk, Proposed Coil Coating Subpart D—Canmaking Rules (WH–552). The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear, PM–213). The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall (202) 382–7126.

SUPPLEMENTARY INFORMATION: On February 10, 1983, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in canmaking (48 FR 6268). The February 10, 1983 notice stated that comments on the proposed regulation were to be submitted on or before April 11, 1983.

EPA was not able to deliver to interested persons copies of the completed technical development document supporting this proposed regulation until the week beginning March 21, 1983. In addition, EPA experienced a delay in making the complete rulemaking record available to the public. EPA has received numerous requests to extend the comment period. EPA has determined that it is necessary to extend the comment period to May 20, 1983, to allow the public adequate time to review the supporting documentation and comment on the proposed regulation.

Dated: March 28, 1983.
Frederic A. Eidsness, Jr.,
Assistant Administrator for Water.
[FR Doc. 83-8800 Filed 4-4-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

Medicaid Program; Medicaid Overpayment Reporting Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing an amendment to Medicaid regulations which would require the States to establish procedures to identify overpayments to providers of services and report them to HCFA. The amendment would revise current policy that requires medical assistance grant awards to be reduced at the time overpayments are reported. The proposed regulations provide that provider overpayments would not be offset against a grant award until the States have had a reasonable period of time to verify and resolve the debt (i.e., 12 months for institutional providers and 90 days for non-institutional providers).

Some States do not have effective mechanisms for identifying and reporting overpayments, and some States do not report overpayments timely. The purpose of these proposed regulations is to reduce program costs to both the State and Federal governments by assuring that all overpayments are identified and reported promptly, and that grant awards are adjusted appropriately, and thereby to encourage States to establish or improve controls that will reduce the number and amount of overpayments.

DATES: To assure consideration, comments should be mailed by June 6, 1983.

ADDRESSES: Please address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, BPO-7-P, P.O. Box 17073, Baltimore, Maryland 21235.

Please address a copy of comments on information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HHS.

In commenting, please refer to file code BPO-7-P.

If you prefer, you may deliver your comments to Room 309G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. or to Room 132 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309G of the Department's office at 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202) 245-7890.

FOR FURTHER INFORMATION CONTACT: Guy L. Harriman, Jr., (301) 594-8193.

SUPPLEMENTARY INFORMATION:

I. Background

Federal grants to the States are authorized under Medicaid (title XIX of the Social Security Act) to provide medical assistance to certain persons with low income. Medicaid programs are jointly financed by the Federal and State governments and administered by the States. The State conducts its program according to a Medicaid State plan approved by the Administrator of HCFA. To carry out the program, the State Medicaid agency reimburses institutional providers of services (e.g., hospitals or skilled nursing facilities) and non-institutional providers (e.g., clinics, laboratories and physicians) that furnish medical assistance to eligible Medicaid recipients.

The Federal government pays it share of a State Medicaid program to the State on a quarterly basis according to a formula described in sections 1903 and 1905(b) of the Social Security Act. The State submits a claim for Federal funds at the end of each quarter. HCFA reviews the claim and transmits to the State a sum to cover the Federal share of allowable payments made by the State to providers in accordance with the State plan. This sum is referred to as Federal financial participation (FFP).

Improper payments inevitably will occur from time to time in any large claims processing system. Examples of improper payments in the Medicaid reimbursement process are duplicate payments for the same services, payments to the wrong provider, payments for noncovered services, and excessive provider reimbursement attributable to reimbursement rate setting methods. Improper payments often are not detected until after the State has submitted its claim for FFP to HCFA. Consequently, the Federal government unknowingly overpays the agency by including, in the quarterly FFP payment, the Federal share of improper payments made by the State to providers. Substantial sums are involved in these improper payments. For example, a recent audit showed that, beginning in 1966, a State had made improper payments to providers totalling 36 million dollars. The State never reported these improper payments to HCFA. FFP was included in this total which resulted in a Federal overpayment to the State of 18 million dollars. In addition, a recent General Accounting Office (GAO) report (HRD-80-77, June 10, 1980) concluded that tens of millions of dollars in overpayments had not been reported.

As evidenced by legislation, Congress has become increasingly concerned about the problem of overpayments in the Medicare and Medicaid programs. Under section 905 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) and section 2104 of the Omnibus Budget Reconcilition Act of 1981 (Pub. L. 97-35), HCFA is provided with expanded authority to recover both Medicare and Medicaid overpayments. Under section 2161 of Pub. L. 97-35, States may obtain an offset against reductions in Federal payments to the State under title XIX of the Social Security Act if they achieve, and can document, certain levels of recoveries of Medicaid funds through anti-fraud and abuse activities. In order to implement these provisions effectively, greater efforts are necessary on the part of the Federal government, as well as the States, to identify and track overpayments so that appropriate recovery actions may be taken.

The Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) requires each Federal agency to attempt to collect money owed to the Federal government from claims arising out of agency activities. Section 1903(d)(2) of the Social Security Act requires that FFP be reduced or increased to the extent of any overpayment or underpayment which the Secretary determined was made to a State in any prior quarter. Additionally, section 1903(d)(3) of the Act states that the Secretary will consider the pro rata Federal share of the net amount recovered during any quarter by a State to be an overpayment. Under the authority of section 1903(d)(2), HCFA has adjusted FFP for the quarter in which an overpayment is reported. This offset normally has been contingent on whether a State notifies HCFA of an improper payment to a provider, or on overpayments identified through HHS, HCFA or GAO audit processes.

Medicaid regulations have dealt with the subject of overpayments only in

relation to long-term care facilities. Thus, 42 CFR 447.296 allowed a State two calendar quarters to report an overpayment made to a long-term care facility. However, as part of the general revisions (September 30, 1981, 46 FR 47964) concerning reimbursement of long-term care facilities, the regulation was deleted.

Our operating policy requires that States report all overpayments to us; however, GAO and HHS audits reveal that some States are not reporting improper payments made to providers unless the State first collects the amount. Moreover, in some cases, States are not reporting collections.

To ensure recovery of the Federal share of Medicaid overpayments, we are proposing in these regulations that States be required to initiate procedures to identify all overpayments and to report that information promptly to HCFA. HCFA would then adjust FFP based on the information supplied by the State as well as information generated by audit or other means. HCFA would also monitor the overpayments from the date on which they are identified by the States and implement methods and procedures to assure timely action to adjust FFP accurately and appropriately.

We want to encourage the States to identify overpayments and report them to HCFA promptly. Therefore, we would provide in these regulations an incentive to the States to report overpayments by allowing a State sufficient time to resolve an overpayment before FFP is adjusted.

The proposed regulations would make Medicaid policy more consistent with that of Medicare (title XVIII of the Social Security Act). Under certain circumstances, the Medicare program permits a provider from 30 days to a year to refund an overpayment to a fiscal intermediary after the provider is notified of the overpayment. In addition, if the Medicare provider demonstrates that repayment within 12 months would create extraordinary financial hardship, HCFA can approve an extended repayment schedule up to 36 months. As noted below, we are proposing a similar provision for recovery of Medicaid overpayments.

II. Major Provisions

A. Identifying and Reporting an Overpayment

The proposed regulations would provide that FFP would not be adjusted (i.e., a disallowance action would not be initiated) until a State has had a reasonable period of time to identify and verify the existence and amount of improper payments. For institutional providers, the period would be 12 months and for non-institutional providers, ninety days. Under the proposed regulations, we would require the States to maintain systems to identify overpayments at all stages of the process employed by the States to properly reimburse providers (such as receipt of cost reports, desk reviews, receipt of audit results, final settlement of cost reports or claims reviews). Once a State has detected an improper Medicaid payment, the State would identify it and report it to HCFA as a "tentative overpayment" on an attachment to the next Quarterly Statement of Expenditures for the Medical Assistance Program, Form HCFA-64 (quarterly report). HCFA would monitor quarterly reports to determine whether the State has resolved the tentative overpayment within the appropriate time period.

B. Establishing an Overpayment

After a tentative overpayment has been identified and reported by the State, we would not determine immediately that an overpayment exists for purposes of adjusting FFP. That determination would be made at the end of the time periods specified in § 447.420 of the proposed regulations (90 days for non-institutional providers and 12 months for institutional providers) or when the State collects the overpayment, whichever is sooner. The stipulated time periods would begin on the date on which the State identifies a tentative overpayment. During the period, the State would be able to ascertain whether in fact an overpayment exists, and if so, the correct amount. Once an overpayment is established, HCFA would recover the overpayment by adjusting FFP through normal grant award procedures.

An exception to this rule would be permitted, as noted below under "Provider Appeals," if recovery of the overpayment from the provider is precluded by State law or court order.

Moreover, if HCFA finds, as a result of an audit or by other means, an incorrect payment that should have been identified and reported by the State as a tentative overpayment but was not so reported, we would determine that an overpayment has been established and make an appropriate adjustment to the State's succeeding grant award.

It should be noted here that HCFA, in accordance with the Federal Claims Collection Act of 1966 and section 1903(d)(2) of the Social Security Act, must recover the full Federal share of an overpayment even if a State is unable to collect an overpayment from a provider.

The proposed regulations do not specify the procedures a State must follow to ensure collection of the State's share of improper payments.

C. Extended Repayment Schedules

Extended repayment schedules have been used in the Medicare program to collect overpayments when a provider is encountering extraordinary financial distress. We propose to allow States to adopt this procedure for use in the recovery of Medicaid overpayments. However, in any case, we would ensure total recovery of the Federal share within 36 months after the repayment schedule takes effect.

This would be accomplished in the following manner. The formula for determining the minimum monthly amount of recovery of FFP is the total amount of the Federal share of the overpayment divided by the number of months, not to exceed 36 months, in the repayment schedule. Thus for example, the minimum monthly recovery for a 20-month repayment schedule would be 1/20th of the total Federal share of the overpayment. However, the minimum monthly recovery for a repayment schedule that exceeds 36 months would be 1/36th of the Federal share of the overpayment regardless of the length of the repayment schedule agreed to by the State. If a repayment by the provider to the State is made that exceeds the amount specified in the repayment schedule, the FFP recovered for that period would be the full Federal share of the actual amount recovered by the State.

We are proposing the inclusion of this recovery formula in the regulations in order to assure full recovery of the Federal share of overpayments within 36 months in situations in which States agree to repayment schedules that exceed 36 months. This formula would also encourage the States not to approve repayment schedules in which the provider could make no repayments during the first 36 months of an agreement and then make the total repayment in the 36th month.

D. Failure of the State To Report

As noted above, the regulations would also state that we would take immediate action to recover the Federal share of an overpayment by adjusting the grant award for the succeeding quarter if we conclude, by audit or other means, that the State has failed to report an overpayment accurately. The intent of this provision is to encourage States to file accurate reports.

In addition, we know that the reimbursement processes employed by the States result in overpayments to some providers. Therefore, if a State fails to report any overpayment activity at all, we would review the State's reimbursement records and adjust FFP for the period in question if we find tentative overpayments that should have been reported. Our review may employ sampling techniques. HCFA would adjust succeeding grant awards appropriately when a State reports overpayments applicable to a prior period for which FFP was adjusted based on such a review.

E. Provider Appeals

The last section of the regulations would provide that a State's obligation to report a tentative overpayment would not be affected by the decision of a provider to appeal either the State's determination that an improper payment exists or the amount of the improper payment. The regulations would make clear that HCFA would make an appropriate adjustment of FFP, once an overpayment is established, regardless of the status of an appeal. However, if a State is precluded, prior to the expiration of the time limits in § 447.420, by State law or court order from exercising recovery action, we would not adjust FFP until a final decision on the appeal is reached or for a period of 24 months from the date the tentative overpayment was identified, whichever is sooner.

If the provider prevails in subsequent administrative or judicial proceedings it initiates, either as to the existence of an improper payment or the amount of the improper payment, the State would report this information to HCFA. We would then make appropriate adjustments in the next grant award.

However, even if the provider prevails in a State administrative proceeding, we would not be obligated to accept the State determination as conclusive for purposes of adjusting FFP. The proposed regulations provide that HCFA may consider all the evidence, including the record and result of the State administrative proceeding, and determine that an overpayment was made.

III. Implementation

We initially intend to implement the reporting requirements only for institutional provider overpayments. After experience is gained, we will implement the reporting requirement for non-institutional provider overpayments. However, until these regulations become effective, States are required to continue to report all provider overpayments in accordance with current HCFA policy.

IV. Overview

The proposed regulations would focus primarily on two areas: first, the requirement that a State promptly identify and report all tentative overpayments to HCFA; and, second, the time period allowed by HCFA during which the State and provider can resolve the tentative overpayment. The process itself would be a simple one: the State would identify and report the tentative overpayment, and HCFA would implement methods and procedures to assure accurate and appropriate adjustment of FFP on expiration of the applicable time period. However, central to the entire process is the obligation of the State to vigorously undertake procedures to detect improper payments.

V. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

VI. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

These proposed regulations are intended to implement a more extensive system for recovery of Medicaid overpayments. We estimate that total annual administrative costs to the Federal and State governments would be relatively minor. We do not have a basis for estimating the savings to be realized, but the net effect of the proposal would be to reduce Medicaid program costs to both the State and Federal governments. In addition, we are required by statute (section 1903(d)(2) of the Social Security Act) to adjust overpayments or underpayments in Federal funding.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), that these proposed regulations would not have a significant impact on a substantial number of small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions." The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons.

As explained above, these proposed regulations would require State agencies administering the Medicaid program to identify and report to HCFA overpayments made by the agencies to providers of health care services. Although there might be, in some cases, a remote effect on small health care providers (e.g., if a State increased its overpayment collection activities and a small provider had received an overpayment), the proposed requirements directly affect only the State agencies. Because these agencies do not fall into the category of small governmental jurisdictions, the Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

VII. Reporting Requirements

Sections 447.415 (a), (b), and (c) of this proposed rule contain information collection requirements. As required by 44 U.S.C. 3504(h), enacted by the Paperwork Reduction Act of 1980 (Pub. L. 96-511), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of those requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the instructions in the "ADDRESS" section of this preamble.

List of Subjects in 42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Overpayments, Payments for services—general, Payments—timely claims, Reimbursement, Rural areas.

PART 447—PAYMENTS FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102, Social Security Act (42 U.S.C. 1302), unless otherwise noted.

42 CFR Part 447 is amended as set forth below:

1. The table of contents for Part 447 is amended by adding a new Subpart E as follows:

* * * * *

Subpart E—Identifying and Reporting Provider Overpayments

Sec.
447.401 Basis and purpose.
447.402 State plan requirements.
447.403 Definitions.
447.410 Identifying tentative overpayments.
447.415 Reporting overpayment information to HCFA.
447.420 Establishing an overpayment for FFP adjustment.
447.421 Recovery by HCFA of the Federal share of overpayments.
447.425 Extended repayment schedules.
447.427 Maintenance and retention of records.
447.429 Failure of the agency to report.
447.430 Provider appeals.

2. A new Subpart E is added as follows:

Subpart E—Identifying and Reporting Provider Overpayments

§ 447.401 Basis and purpose.

(a) *Statutory basis.* This subpart implements the Federal Claims Collection Act (31 U.S.C. 951-953) and sections 1903(d)(2) and 1903(d)(3) of the Social Security Act. The latter sections direct that quarterly Federal payments to the States under title XIX of the Social Security Act are to be reduced or increased to the extent of prior overpayments or underpayments that the Secretary determines have been made.

(b) *Purpose.* This subpart sets forth the procedures that—

(1) Medicaid agencies must follow to identify and report tentative overpayments made to Medicaid providers; and

(2) HCFA will follow to recover the Federal share of established overpayments.

(c) *Implementation dates.* This subpart will be effective—

(1) For institutional providers, on the first day of the second calendar quarter following the calendar quarter in which the final regulations are published in the Federal Register.

(2) For non-institutional providers, on the first day of the ninth calendar quarter following the calendar quarter in which the final regulations are published in the Federal Register.

§ 447.402 State plan requirements.

A State plan must provide that the requirements of this subpart be met.

§ 447.403 Definitions.

For the purposes of this subpart—

"Overpayment" means the amount, paid to a provider by a Medicaid agency, that HCFA determines to be in excess of the amount to which the provider was entitled.

"Tentative overpayment" means—

(1) The amount, identified at any stage of the reimbursement process, that has been paid by a Medicaid agency to a provider and that appears to be in excess of the amount that should have been paid; or

(2) Any amount paid to a provider during a period for which a provider cost report is not timely filed.

§ 447.410 Identifying tentative overpayments.

(a) The agency must establish and maintain procedures to—

(1) Identify promptly, at each stage of the reimbursement process, tentative overpayments made to providers; and

(2) Determine whether the agency had claimed FFP for the payment.

(b) This process must be completed by the agency in the quarter in which it receives information about a possible tentative overpayment.

§ 447.415 Reporting overpayment information to HCFA.

The agency must report to HCFA, on a quarterly report (designated by HCFA instructions) for the quarter in which the action is taken, the following—

(a) Identification of tentative overpayments;

(b) Collection of overpayments from providers; and

(c) Other overpayment information as prescribed by HCFA.

§ 447.420 Establishing an overpayment for FFP adjustment.

(a) For purposes of adjusting FFP, HCFA will establish an overpayment equal to—

(1) The amount reported by the agency as a tentative overpayment—

(i) Twelve months from the date an agency identifies a tentative overpayment made to an institutional provider; or

(ii) Ninety days from the date an agency identifies a tentative overpayment made to a non-institutional provider;

unless § 447.430(b) concerning provider appeals applies.

(2) The amount of collections reported by an agency for any quarter within the time periods listed in paragraph (a)(1) of this section;

(3) The amount set forth in an extended repayment schedule under § 447.425; or

(4) The amount involved in each instance in which HCFA determines, through audit or other means, that an agency—

(i) Did not report a tentative overpayment;

(ii) Did not report a collection; or

(iii) Incorrectly reported the amount of a tentative overpayment or a collection.

(b) Notwithstanding the outcome of a provider appeal in a State administrative process, HCFA may establish an overpayment for purposes of adjusting FFP if it determines, after an independent review, that the evidence substantiates that an overpayment was made to the provider. (See § 447.430 concerning provider appeals.)

(c) If the last day of the time periods listed in paragraph (a)(1) of this section falls on a weekend or legal holiday, HCFA will deem the end of the period to fall on the next regular business day.

§ 447.521 Recovery by HCFA of the Federal share of overpayments.

(a) HCFA will recover the federal share of an overpayment by adjusting FFP, in the appropriate amount and rate, for the quarter in which an overpayment is established in accordance with § 447.420, except that if an extended repayment schedule is adopted under § 447.425, HCFA will recover from the State the Federal share of the installment payments.

(b) If an agency determines that a previously recovered overpayment should be decreased, HCFA will adjust FFP for the quarter in which the information is reported to HCFA.

§ 447.425 Extended repayment schedules.

(a) Notwithstanding the provisions of 45 CFR 201.66 (Repayment of Federal funds by installments), HCFA will adjust FFP on an installment basis to recover an overpayment if an agency enters into an agreement with a participating provider experiencing extraordinary financial hardship to allow the provider to repay overpayment amounts on an installment basis.

(b) The agency must—

(1) Negotiate the agreement with the provider within the time periods listed in § 447.420(a)(1).

(2) Require that the provider demonstrate its financial inability to

repay the overpayment immediately in a lump sum.

(3) Report the agreement as prescribed by HCFA under § 447.415.

(c) If a State agrees to an extended repayment schedule, HCFA will adjust FFP as follows:

(1) If the repayment schedule is 36 months or less, by the total amount of the Federal share of the overpayment divided by the number of months in the repayment schedule.

(2) If the repayment schedule is more than 36 months, by the total amount of the Federal share of the overpayment divided by 36.

(3) If a State receives an amount in addition to the scheduled repayment amount in any quarter, FFP for the additional amount will be adjusted appropriately.

(d) If a provider defaults on a repayment schedule, HCFA will—

(1) Deem the repayment agreement to have been void at its inception; and

(2) Adjust FFP for the quarter in which the agency reports the default by the amount of the Federal share of the unpaid balance.

(e) If a provider's participation in the program is terminated, HCFA will adjust FFP by the amount of the unpaid balance in the quarter in which the termination occurs.

§ 447.427 Maintenance and retention of records.

The agency must—

(a) Maintain a separate record of all overpayment activity for each provider; and

(b) Retain the record for three years from the date the tentative overpayment was identified or until transactions relating to collection and repayment schedules are completed.

§ 447.429 Failure of the agency to report.

(a) If an agency reports no tentative overpayments in a reporting period, HCFA will—

(1) Review the agency's reimbursement records for the reporting period in question; and

(2) Based on the review, which may utilize sampling techniques, adjust FFP if it finds that tentative overpayments were not reported.

(b) If an agency files a report documenting actual overpayment activity for a period in which an adjustment in FFP was taken as a result of a HCFA review under this section, HCFA will adjust FFP in succeeding grant awards.

§ 447.430 Provider appeals.

(a) The agency must report a tentative overpayment to HCFA, even if a provider appeals a Medicaid agency's determination regarding a tentative overpayment.

(b) If, prior to the expiration of the time periods stated in § 447.420(a)(1), a provider files an appeal and the agency is precluded by State law or court order from exercising recovery action, HCFA will not establish an overpayment for purposes of adjusting FFP until after the earlier of—

(1) A final decision on the appeal; or

(2) Twenty-four months from the date the tentative overpayment was identified.

(c) If the amount of an overpayment is increased or decreased as a result of a provider appeal—

(1) The agency must report the corrected amount to HCFA; and

(2) HCFA will adjust FFP appropriately for the quarter in which the agency submits its report.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid)

Dated: November 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-8815 Filed 4-4-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20522; FCC 83-106]

Amendment of Annual Report Form M for telephone companies, Form O for wire-telegraph and ocean-cable carriers, Form R for radiotelegraph carriers, and Form H for holding companies to provide for more comprehensive information on corporate ownership

AGENCY: Federal Communications Commission.

ACTION: Notice of dismissal of proposed rulemaking.

SUMMARY: The Commission has adopted a Report and Order terminating the proceeding in Docket 20522 which proposed to revise Annual Report Forms M, O, R, and H by substantially increasing the amount of data regulated carriers would be required to file regarding corporate ownership. This proceeding is terminated because of the overwhelming opposition by the commentors; the lack of a showing of regulatory need; and legal questions which were raised regarding the Commission's ability to enforce the revised regulations. This action is taken to close the record on this item.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Common Carrier Bureau, Accounting and Audits Division, (202) 634-1861.

List of Subjects in 47 CFR Part 43

Communications Common Carriers, Ocean-cable, Radiotelegraph, Reporting requirements, Telephone Wire-telegraph.

Report and Order (Proceeding Terminated)

In the matter of amendment of Annual Report Form M for telephone companies, Form O for wire-telegraph and ocean-cable carriers, Form R for radiotelegraph carriers, and Form H for holding companies to provide for more comprehensive information on corporate ownership; Docket No. 20522.

Adopted March 16, 1983.

Released March 22, 1983.

By the Commission.

I. Introduction

1. On June 11, 1975, the Commission adopted a Notice of Proposed Rulemaking (NPRM) (June 24, 1975; 40 FR 26557) which proposed to revise Annual Report Forms M, O, R and H to provide more comprehensive data on corporate ownership of communications common carriers. More specifically, the NPRM was issued to solicit public comments on whether the Commission should incorporate into its regulations substantive provisions of this Model Corporate Disclosure Regulations (MCDR) which were developed in 1974 and 1975 by the Interagency Steering Committee on Uniform Corporate Reporting.[1] The MCDR, which was developed primarily to improve the quality and uniformity of corporate reporting to the Federal Government, called for increased disclosure by regulated companies as to the beneficial ownership of voting stock, corporate structure, affiliations of officers and directors, and debt holders.

2. In issuing the NPRM, the Commission did not cite any specific regulatory need for the additional corporate reporting. Instead, the Commission stated that the proposal resulted primarily from hearings held in 1974 by the Subcommittee on Budgeting, Management, and Expenditures (BME

[1] The Interagency Steering Committee on Uniform Corporate Reporting was comprised of representatives of nine Federal agencies including the Federal Communications Commission. It was disbanded in 1975 after drafting the Model Corporate Disclosure Regulations.

Subcommittee) and the Subcommittee on Intergovernmental Operations of the Senate Committee on Government Operations with respect to the matter, among others, of disclosure of corporate ownership information in reports to independent Federal regulatory agencies. The Commission also noted that the model rules developed by the Interagency Steering Committee were forwarded to the Commission by the late Senator Lee Metcalf, then Chairman of the BME Subcommittee. The Commission stated that it was proposing to amend its annual reports in line with the MCDR and the intent to maintain comprehensive data in reports filed with it.

II. Proposed Amendments

3. The major provisions of the reporting proposed in the NPRM are outlined below:

1. Identification of the respondent's principal business activities using Standard Industrial Classification Codes;

2. Identification of organizations controlled by the respondent and the relationship of the respondent to parents, subsidiaries, and other organizations controlled by the respondent;

3. Reporting of data pertaining to positions held and other business affiliations of directors, officers, trustees, partners, or other persons exercising similar functions in any business organization;

4. Reporting of data pertaining to agreements exceeding $1,000,000, except for the provision of tariffed services, entered into by the respondent with any of the businesses with which a director or officer is affiliated;

5. Reporting of data pertaining to agreements exceeding $600, except for the provision of tariffed services, entered into between the respondent and each named official where payments are made for other than salaries;

6. Reporting of data pertaining to agreements exceeding $600 for professional services furnished the respondent by each business organization with which an official is affiliated;

7. Identification of those persons or institutions that hold voting power in the 30 largest blocks of each class of stock in each reporting company with all nominees or other accounts of each stockholder aggregated and reported as one account;

8. Identification of certain long-term and short-term debt holders as well as the reporting of restrictive covenants attached to the respondent's indebtedness.

Comments

4. The Commission received fourteen responses to its request for comments on the NPRM.[2] Twelve respondents generally opposed the proposed amendments either in whole or in part. The late Senator Lee Metcalf and the Council on Economic Priorities (CEP) supported the proposal, but both of these respondents expressed dissatisfaction that the Commission's proposal did not go far enough in adopting the MCDR.

5. The opposing comments expressed concern that the proposed regulations would impose an extremely heavy burden on carriers, banks, brokers, and this Commission and that the increased reporting burden was not supported by any stated regulatory need for the data. In addition they stated that certain data concerning ownership and voting power of securities are unavailable to the carriers and raise questions as to confidentiality and the right to privacy. The respondents also argued that much of the proposed information duplicates information filed with other government agencies. Finally, it was argued that the imposition of all the disclosure burdens on institutional investment managers might well impede the liquidity of telephone company stock in the marketplace and curtail the ability of the telephone companies to raise needed capital.

6. The comments on burden were particularly concerned about the physical impossibility of the carriers to comply with a requirement to list the 30 largest shareholders. It was argued that the carriers would have to obtain these data from banks, brokers, and insurance companies who are not subject to this Commission's rules and who could not be forced to furnish the carriers with such lists. Respondents further pointed out that in many states it would be contrary to local law for a bank trustee to disclose the names of persons owning the stock over which the bank possesses no voting authority.

7. The late Senator Metcalf was pleased that the Commission had initiated a rulemaking on corporate disclosure but stated his belief that the Commission's proposed revisions contained deficiencies and fell far short of satisfying the reporting needs of the Commission, Congress, and the public. The Senator strongly urged the Commission to adopt the MCDR in its entirety. The CEP endorsed the comments of Senator Metcalf and supported his call for the Commission to adopt the MCDR in its entirety.

Discussion

8. As indicated above, the Commission issued an NPRM to solicit public comments on whether we should adopt substantive provisions of the MCDR developed to improve the quality and uniformity of corporate disclosure data reported to regulatory agencies. Based on the comments received, it is apparent that the proposed reporting would place a heavy reporting burden on the carriers. Moreover, this burden would be compounded because the carriers do not have access to, and may not be able to legally obtain, some of the proposed data. In our view the additional burden of the reporting proposed in the NPRM is not justified on the basis of improved quality and uniformity alone. Moreover, upon further review, we have found no regulatory need for recurring data that cannot be met with the information required in current reports.

9. In our review of this matter, we have also found that the goal of the MCDR for uniform corporate disclosure regulations among regulatory agencies is not likely to be achieved. The Civil Aeronautics Board (CAB) issued an Advance Notice of Proposed Rulemaking in 1977 to solicit public comment on whether it should adopt the MCDR. On March 30, 1978, the CAB terminated that rulemaking proceeding without adopting any of the MCDR.[3] Moreover, although the Interstate Commerce Commission had adopted substantial new reporting requirements in 1978 based on the MCDR, it subsequently eliminated those requirements on February 26, 1982, effective retroactively to January 1, 1981,

[2] The respondents were: The First National Bank of Chicago, Security Pacific National Bank, Harris Trust and Savings Bank, Continental Illinois National Bank and Trust Company of Chicago, RCA Global Communications, Inc., United System Service, Inc., on behalf of the member companies comprising the United Telephone System, The Western Union Telegraph Company, combined comments of the Southern Pacific Company and Southern Pacific Communications Company, The American Telephone and Telegraph Company and associated Bell System operating companies (Bell System), General Telephone and Electronics Corporation and its Domestic Telephone Operating Subsidiaries, American Bankers Association (ABA), Communications Statellite Corporation, the Council on Economic Priorities, and the late U.S. Senator Lee Metcalf.

[3] Civil Aeronautics Board Docket 31205; see EDR-331, 42 FR (39115) August 2, 1977; EDR-331A, 42 FR (42691) August 24, 1977; EDR-331B, 42 FR (49482) September 27, 1977; and EDR-331C, 42 FR (55823) October 19, 1977; EDR-331D, 43 (14523) April 6, 1978.

on the basis that the information was not needed for its regulatory functions.[4]

10. Finally, a considerable amount of time has elapsed since this NPRM was issued. During that time a good deal of attention has been directed toward reducing paperwork burdens imposed by the Federal Government including Congressional enactment of the Paperwork Reduction Act of 1980.[5] Under the Paperwork Reduction Act an agency is required to demonstrate, subject to review by the Director of the Office of Management and Budget, that proposed information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. With regard to the reporting proposed in the NPRM, we believe that the lack of a pressing regulatory need for the data coupled with the Commission's efforts to reduce carrier reporting burdens in line with the Paperwork Reduction Act make this proposal unacceptable in today's regulatory environment. Accordingly, we have decided to terminate this rulemaking proceeding.

Order Clause

11. Accordingly, it is ordered, That the rulemaking proceeding in Docket 20522 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-8844 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-228; RM; 4323]

FM Broadcast station in Juneau, Alaska; Proposed changes in Table of Assignments

AGENCY: Federal Communication Commission

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Class C Channel 264 to Juneau, Alaska, in response to a petition filed by Locher Development Corporation. The proposed assignment could provide a third FM service to that community.

DATE: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Juneau, Alaska); MM Docket No. 83-270, RM-4323.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 4, 1983, by Locher Development Corporation ("petitioner") proposing the assignment of Class C Channel 264 to Juneau, Alaska, as its third FM assignment. Petitioner submitted information in support of the proposal and expressed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the proposed assignment of Channel 264 to Juneau, Alaska, is within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government must be obtained.

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

City	Channel No.	
	Present	Proposed
Juneau, Alaska	282, 286	264, 282, 286.

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

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

5. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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[4] Interstate Commerce Commission No. 38568, 46 FR (45967) September 16, 1981; 47 FR (9468) March 5, 1982.

[5] Public Law 96-511—December 11, 1980.

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

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

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

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

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

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

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

[FR Doc. 83-8840 Filed 4-4-83; 9:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-266; RM-4283]

FM Broadcast Station in Fresno, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 69 to Fresno, California, in response to a petition filed by Millard V. Oakley.

DATES: Comments must be filed on or before reply comments on or before May 12, 1983 and May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations, (Fresno, California); MM Docket No. 83-266, RM-4283.

Adopted: March 15, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. Millard V. Oakley ("petitioner"), on December 29, 1982, submitted a petition for rule making requesting the assignment of UHF Television Channel 69 to Fresno, California, as its seventh commercial television assignment. Petitioner stated that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Fresno (population 218,202),[1] seat of Fresno County (population 515,013)[1] is located in central California, approximately 260 kilometers (160 miles) northeast of San Francisco.

3. In support of his request, petitioner submitted population data for the year 1981. Petitioner also submitted 1981 spendable income and retail sales statistics for the county.[2]

4. We believe that the petitioner's proposal warrants consideration. The proposal meets all spacing requirements and could provide for a seventh commercial television station at Fresno. Comments are invited on the proposal to amend the Television Table of Assignments with regard to the following community:

City	Channel No.	
	Present	Proposed
Fresno, California	*16+, 24, 30+, 43, 47, 55, and 59.	*16+, 24, 30+, 43, 47, 55, 59, and 69

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

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

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

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

[2] Information was extracted from Standard Rate & Data Service, Inc.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8629 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-234; RM-4338]

FM Broadcast Stations in Sutter Creek, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 269A to Sutter Creek, California, in response to a petition filed by Harold Kozlowski. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634.6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sutter Creek, California) MM Docket No. 83-234, RM-4338.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 10, 1983, by Harold Kozlowski ("petitioner") seeking the assigment of FM Channel 269A to Sutter Creek, California, as its first FM assignment. Petitioner furnished information in support of the proposal and expressed his interest in applying for the channel, if assigned. A site restriction of 5.8 miles southeast of Sutter Creek is required to avoid short-spacing to a construction permit for KHYL, Channel 266, in Auburn, California.

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

City	Channel No.	
	Present	Proposed
Sutter Creek, California		269A

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

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning

the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8835 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-236; RM-4324]

FM Broadcast Stations in Panama City Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM commercial Channel 261A to Panama City Beach, Florida, as its first FM outlet in response to a request by Community Service Broadcasters.

DATES: Comments must be filed on or before May 12, 1983, and reply comments must be filed on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Panama City Beach, Florida); MM Docket No. 83-236, RM-4324

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a request from Community Service Broadcasters ("Community") for the assignment of FM Channel 261A to Panama City Beach, Florida. In support of its request, Community states that the assignment could provide a first FM service to Panama City Beach. Community also states that it will promptly apply for a construction permit to build the broadcast facility if the channel is so allocated.

2. In view of the above, we conclude that the public interest would be served by our proposing the amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules for the following community:

	Channel No.	
	Present	Proposed
Panama City Beach, Florida		261A

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

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

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules.

See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632-5414. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8833 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-230; RM-4350]

FM Broadcast Stations in Vero Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 269A to Vero Beach, Florida, in response to a petition filed by Sunshine Broadcasting, Inc. The assignment could provide Vero Beach with its third FM assignment.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the Matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Vero Beach, Florida); MM Docket No. 83-230, RM-4350.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the chief, Policy and Rules Division.

1. A petition for rule making was filed by Sunshine Broadcasting, Inc. ("petitioner"), seeking the assignment of FM Channel 269A to Vero Beach, Florida, as that community's third assignment. Petitioner indicated that it will apply for the channel, if assigned as proposed.

2. Although petitioner submitted a community profile and preclusion data, such information is not required for this proposal in light of the Commission's action in BC Docket No. 80-130, *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

3. The required geographical separation between a Class A channel and third adjacent Class C is 65 miles, whereas the distance between Vero Beach and the present transmitter of Channel 266 (Station WCKS) at Cocoa Beach, Florida, is 53 miles. Petitioner acknowledges that its proposal is therefore 12 miles short-spaced to WCKS in contravention of § 73.207 of the Commission's Rules. However, petitioner advises that the licensee of Station WCKS, Southland Broadcasting, Inc., has an application pending (File No. BPH-801230AC), to relocate its transmitter to a site which would

comply with the required distance separation.

4. A staff engineering study reveals that Channel 269A is the only Class A channel available to Vero Beach, Florida. At the present time, however, a site restriction of the magnitude required herein (12 miles) would preclude a Class A station from providing the requisite 70 dBu signal over Vero Beach as required by § 730315(a) of the Commission's Rules. Therefore, the proposed assignment of that channel herein must be contingent on the outcome of the application of Station WCKS (Channel 266) at Cocoa Beach, Florida to relocate its transmitter, which would remedy the short-spacing currently inherent in petitioner's proposal, and permit the required site proximity.

5. In view of the above, the Commission seeks comment on the following proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Vero Beach, Florida, as follows:

City	Channel No.	
	Present	Proposed
Vero Beach, Florida	228A and 266A.	225A, 269A, and 286A.

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

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

7. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8838 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No 83-231; RM-4265]

FM Broadcast Stations in Panama City, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign commercial FM Channel 285A to

Panama City, Florida, as its sixth assignment in response to a request by WANM, Inc.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Panama City, Florida); MM Docket No. 83-231, RM-4265.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. In a *Report and Order*, BC Docket No. 82-563, published in the **Federal Register** on January 7, 1983 (48 FR 809), the Commission assigned FM Channel 292A to Panama City, Florida, in response to a peitition by WANM, Inc., ("WANM") and comments by Gulf Property and Investment Company. Both stated that they would apply for authority to operate on the channel if it were so assigned. WANM filed further comments in that proceeding requesting the assignment of an additional Class A FM channel to Panama City in light of the additional interest expressed for such a channel.

2. WANM submitted an engineering statement showing that Channels 240A, 261A and 285A could be assigned to Panama City with no significant restrictions on selection of a transmitter site; and that Channels 257A and 288A could be assigned with site restrictions of 4 miles and 2 miles, respectively, east of Panama City.

3. In view of the interest expressed in an additional Class A channel to Panama City and the availability of such a channel, we conclude that the public interest would be served by our proposing the assignment of Channel 285A to Panama City. The assignment would meet all spacing requirements of the Commission's Rules.

4. Accordingly, we solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Panama City, Florida	223, 253, 278, 292A, and 300.	223, 253, 278, 285A, 292A, and 300.

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

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

6. Interested parties may file comments on or before May 12, 1982, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

8. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

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

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

[FR Doc. 83-6837 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-267; RM-4308]

TV Broadcast Stations in Tampa, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 50 to Tampa, Florida, as its sixth television assignment, in reponse to a petition filed by Harry C. Powell, Jr.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Tampa, Florida); MM Docket No. 83-267, RM-4308.

Adopted: March 15, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by Harry C. Powell, Jr. ("petitioner"), seeking the assignment of UHF Television Channel 50 to Tampa, Florida, as its sixth television assignment. The channel can be assigned in compliance with the minimum distance separation requirements and other criteria.

2. Tampa (population 271,523),[1] seat of Hillsborough County (population 646,960), is located on the west coast of Florida, approximatley 320 kilometers (200 miles) northwest of Miami.

3. Petitioner submitted information in support of his request and expressed his interest in applying for the channel, if assigned.

4. In view of the fact that Tampa could receive its sixth television assignment, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the city of Tampa, Florida, as follows:

City	Channel No.	
	Present	Proposed
Tampa, Florida	*3, 8-, 13-, *16, and 28.	*3, 8-, 13-, *16, 28, and 50.

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

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

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

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

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.402(d) of the Commission's Rules.)

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

connection with the decision in this docket.

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

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

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

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

[FR Doc. 83-8839 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-269; RM-4319]

FM Broadcast Station in Blackfoot, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Class C Channel 247 for Channel 249A in Blackfoot, Idaho, and to modify the Class A license accordingly, in response to a petition filed by Western Communications, Inc.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

List of Subject in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Blackfoot, Idaho); MM Docket No. 83-269, RM-4319.

Adopted: March 15, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed December 30, 1982, by Western Communications, Inc.,[1] ("petitioner") which seeks to substitute Class C Channel 247 for Channel 249A at Blackfoot, Idaho, and to modify the license for Station KBLI(FM) (Channel 249A) to specify operation on Channel 247.

2. Petitioner submitted information in support of the proposal. It noted that the Blackfoot region is predominantly agricultural with a scattered population. Petitioner believes that substituting the Class C channel for the existing Class A channel would enable the station to extend is signal. Channel 247 can be substituted in compliance with the minimum distance separation requirements.

3. We believe that the petitioner's proposal warrants consideration. In accordance with our established policy we shall propose to modify the license of Station KBLI(FM), Channel 249A, to specify operation to Channel 247. However, if another party should indicate an interest in the Class C assignment, the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

4. In view of the need for a wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, §73.202(b) of the Rules, for the following city:

City	Channel No.	
	Present	Proposed
Blackfoot, Idaho	249A	247

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

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

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposd to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule*

[1] Petitioner is the licensee of Station KBLI(FM), Channel 249A, Blackfoot, Idaho.

Making to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8830-Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-270; RM-4274]

FM Broadcast Station in Pana and Ramsey, Illinois; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A channel to Ramsey, Illinois, and the substitution of one Class A channel for another at Pana, Illinois, with modification of the license accordingly, in response to a petition filed by David Voss. The proposal could provide a first local service to Ramsey.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making and Order to Show Cause

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Pana and Ramsey, Illinois) MM Docket No. 83-270, RM-4274.

Adopted: March 15, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on December 15, 1982, by Daniel Voss (petitioner), proposing the assignment of Channel 265A to Ramsey, Illinois, as its first FM assignment. The substitution of Channel 232A for Channel 265A at Pana, Illinois, would also be required in order to avoid a short spacing. Petitioner expressed his intention to apply for Channel 265A, if assigned to Ramsey.

2. The Substitution of Channel 232A for Channel 265A at Pana, will require modification of the license for Station WKXK(FM), to specify the new channel. The licensee is therefore requested to respond to the *Order to Show Cause* herein in paragraph 4. The licensee, Pana Broadcasting Corporation, is entitled to reimbursement from the ultimate permittee of the proposed Ramsey assignment for the costs involved in changing its frequency.

3. In view of the foregoing information and the fact that the assignment could provide a first local FM broadcast service to Ramsey, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following cities:

City	Channel No.	
	Present	Proposed
Pana, Illinois	265A	232A
Ramsey, Illinois		265A

4. *It is ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Pana Broadcasting Corporation, licensee of Station WKXK(FM) Pana, Illinois, *shall show cause* why its license should not be modified to specify operation on Channel 232A in lieu of Channel 265A.

5. Pursuant to § 1.87 of the Commission's Rules, Pana Broadcasting, Inc. may, not later than May 12, 1983, request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Pana Broadcasting Corporation, may not later than May 12, 1983, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause.* In this case, the Commission may call on Pana Broadcasting Corporation to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause.* If the right to request a hearing is waived and no written statement is filed by the date referred to above, Pana Broadcasting Corporation, will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission if the above-mentioned channel modification is ultimately found to be in the public interest.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures,

and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

10. It is ordered, That the Secretary of the Commission SHALL SEND, by *Certified mail, return receipt requested*, a copy fo this *Order to Show Cause* to Pana Broadcasting Corporation, 131 South Locust Street, Pana, Illinois.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8832 Filed 4-4-83; 8:45 am]

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47 CFR Part 73

[MM Docket No. 83-268; RM-4337]

FM Broadcast station in Meadville, Mississippi; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 257A to Meadville, Mississippi, in response to a petition filed by Franklin Broadcasting Company of Mississippi.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Meadville, Mississippi) MM Docket No. 83-268, RM-4337.

Adopted: March 15, 1983

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 7, 1983, by Franklin Broadcasting Company of Mississippi ("petitioner"), which seeks the assignment of Channel 257A to Meadville, Mississippi. Petitioner expressed a desire to apply for the channel, if assigned.

2. In support of the proposal to assign a first FM channel to Meadville,

petitioner submitted population information. However, in view of the action taken in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), that information is no longer necessary.

3. We have determined that Channel 257A can be assigned to Meadville in conformity with the minimum distance separation requirements provided the transmitter site is located approximately 2 miles south of the city[1]. This restriction is necessary to avoid short spacing to the construction permit for a new transmitter site issued to Station WQMV(FM), Vicksburg, Mississippi.

4. In view of the fact that the proposal could provide for a first local broadcast service to Meadville, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Meadville, Mississippi		257A

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

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

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[1]The proposed assignment would be short-spaced by 12 miles to the current location of Station WQMV(FM), Vicksburg, Mississippi. However, the licensee of Station WQMV(FM) has been granted a construction permit to relocate its transmitter site. At the new site only a 2 mile site restriction would be necessary to accommodate the proposal.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8831 Filed 4-4-83; 8:45 am]
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47 CFR Part 73

[BC Docket No. 82-276; RM-4060]

TV Broadcast Stations in Billings, Miles City, and Lewistown, Montana; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes two alternative plans to provide a new TV service to Billings, Montana. The first would reassign VHF Television Channel

*6 from Miles City, Montana, where it is reserved for noncommercial educational use, to Billings, Montana, for commercial use, and replace Channel *6 with Channel *10 in Miles City for noncommercial educational use, as requested by Comanche Enterprises. The second option would reassign VHF Channel 13 from Lewistown, Montana, to Billings, Montana, for commercial use.

DATES: Comments must be filed on or before May 9, 1983, and reply comments on or before May 24, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Billings, Miles City, and Lewiston, Montana [1]); BC Docket No. 82-276, RM-4060.

Further Notice of Proposed Rule Making

Adopted: March 14, 1983.

Released: March 24, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, published in the **Federal Register** on May 26, 1982 (47 FR 22985). The *Notice* proposed that the Television Table of Assignments be amended to reassign Channel *6 from Miles City, Montana, where it is reserved for noncommercial educational use, to Billings, Montana, for commercial use and to replace Channel *6 with Channel *10 in Miles City as the noncommercial educational channel. The *Notice* was issued in response to a petition by Comanche Enterprises ("petitioner").

2. In support of its proposal, petitioner states that it seeks a VHF channel for Billings inasmuch as development of available UHF channels there is impractical.[2] Petitioner contends that surrounding mountainous terrain and inherent disabilities in UHF television service would prevent effective signal transmission to Billings. Petitioner asserts that, because of this, NBC has been unwilling to extend affiliation to Billings. The ABC and CBS television networks have affiliations in Billings with VHF Stations KULF-TV, Channel 8, and KTVQ, Channel 2, respectively. NBC has an affiliation with VHF Station KOUS, Channel 4, Hardin, Montana, fifty miles east of Billings. KOUS broadcasts its signal into Billings, but petitioner alleges that the quality of the signal is poor due to a large ridge between the KOUS transmitter and receiving sets in Billings.

3. Petitioner points out that the Commission originally assigned Television Channels 3, *6, and 10 to Miles City in 1952 when it first established the Television Table of Assignments. Since that time, only Station KYUS (NBC affiliate), Channel 3, has become fully operational. Channels *6 and 10 are currently used for secondary translator operations which rebroadcast the signals of the two full service television stations in Billings.

4. Petitioner emphasized that reassignment of reserved Channel *6 from Miles City to Billings for commercial use would neither preclude nor impair the potential development of educational service in Miles City. Channel 10 would be reserved for future noncommercial educational use should the demand for such service develop.

5. In response to the *Notice*, comments were filed by petitioner; Garryowen Corporation ("KTVQ"); KOUS-TV, Inc. ("KOUS"); Harriscope Broadcasting Corporation ("KULR"); and Three C's Broadcasting Company ("Three C's"). Reply comments were filed by KTVQ and by the petitioner, and supplements to reply comments were filed by petitioner.

6. Petitioner supports the proposal here for the reasons previously advanced and reiterates its intention to apply for authority to operate on Channel 6 in Billings if it is so assigned.

7. KULR opposes the proposal on the grounds that no substantial need has been shown for the assignment of a new VHF channel to Billings and that any need for new television service in Billings could be fulfilled by operation on the unused UHF channels already assigned there. KULR asserts that Billings receives adequate television service from Stations KTVQ, KULR and KOUS. KULR contends that the Billings-Hardin market, with 75,800 TV households, already has more VHF service than other comparable television markets, *e.g.*, Laurel-Hattiesburg, Miss., Elmira, N.Y., and Alexandria, La., with TV households of 81,000 to 83,000 and one VHF station; and Panama City, Florida, with TV households of 80,400 and 2 VHF stations.

8. KULR states that in circumstances similar to those which obtain here the Commission denied a petition to reassign a VHF channel. *Salt Lake City, Utah*, 12 R.R. 2d 1584 (1968). There, the petitioner sought the assignment of Channel 13 as a fourth commercial VHF station to Salt Lake City by changing unused VHF assignments elsewhere. The population of Salt Lake City was 445,000. KULR concludes that, if a market the size and importance of Salt Lake City did not warrant a fourth commercial VHF service, Billings cannot be said to have a pressing need for additional service. KULR notes that the Commission did assign Channel 13 to Salt Lake City in the *VHF Drop-in* proceeding in 1980, 81 F.C.C. 2d 233, due in large part to the "tremendous growth" in Salt Lake City.

9. In support of its contention that any new television service in Billings should be implemented on the unused UHF channels there, KULR points to the Commission's action in *Helena and Great Falls, Montana*, 20 F.C.C. 2d 562 (1969), *recons. denied*, 18 R.R. 2d 1805 (1970). There, the licensee of Channel 12 in Helena sought the reassignment of Channel 10 from Helena to Great Falls, Montana, for the establishment of a satellite station, pointing to the population of Great Falls as being twice that of Helena and the infeasibility of using a UHF channel in Great Falls to compete with existing VHF stations there. KULR states that the Commission denied the request on the ground that assignment of another VHF channel to Great Falls could not be justified when two UHF channels there were lying fallow. KULR further states that the availability of unused UHF channels was also a basis for denial of the proposed reassignment in *Salt Lake City, supra*.

10. KTVQ also opposes the petitioner's instant proposal. KTVQ argues that it would cause the loss or substantial reduction of translator service to Miles City and a major portion of Custer County. VHF translator Station K10GF, Miles City, rebroadcasts the signal of Station KTVQ, Billings (Channel 2, CBS). VHF translator Station K06FE, Miles City, rebroadcasts the signal of Station KULR, Billings (Channel 8, ABC). The translators operate on Channels 6 and 10 with a power of 100 watts. KTVQ argues that the reassignment of Channel 6 to Billings and the reservation of Channel 10 in Miles City for noncommercial educational use would result in the translators reducing power to 10 watts or perhaps going silent, leaving NBC with the only off-air network service available to many residents of the Miles City area.

11. KTVQ claims that the importance of translator service to that area should not be underestimated, inasmuch as the latest Nielsen Report shows that 44 percent of all non-cable viewing in

[1] Lewistown has been added to the caption.

[2] Channels 14 and 20 are already assigned and unused at Billings.

Custer County is of Stations KULR–TV and KTVQ via their respective translator stations. KTVQ states that, additionally, the KULR–TV signal on the Miles City cable system would be lost since the system presently picks up the KULR signal from the translator station, K06FE. KTVQ recognizes that translator service is secondary but asserts that the Commission cannot ignore such service where a proposed assignment will result in a significant loss of service to an underserved area, with no countervailing public interest considerations.

12. KTVQ argues that Billings is adequately served, does not need another assignment and will not support a fourth station. KTVQ adds that the proposed assignment of Channel 6 would merely result in the substitution of NBC network service at Billings instead of KOUS-TV in Hardin.

13. KTVQ contends that, contrary to petitioner's claim, the quality of the KOUS–TV signal in the Billings area is good. KTVQ submits an engineering exhibit showing that KOUS–TV places a city-grade signal over Billings and points out that KOUS–TV has recently been authorized to identify with Billings.

14. KTVQ contends that while the Commission's *Notice* herein relies on its decision in *Medford, Oregon*, 44 Fed. Reg. 1503 (1977) for the proposition that it is not desirable to put the third network affiliate on a UHF channel, the decision is not relevant in this case because the three networks are already present in Billings. KTVQ adds that Billings is an ideal location for a UHF station because the mountains are not in the immediate Billings area and would have little, if any effect on reception of the UHF signals.

15. KOUS commented in opposition to the instant proposal. KOUS points out that since the filing of petitioner's instant proposal, Station KOUS–TV has been granted full-time network affiliation with NBC as of September 1, 1982. Previously, the station could broadcast only those NBC programs not carried by KTVQ in its "cherry-picking" relationship with both CBS and NBC. KOUS states that it is effectively serving the Billings-Hardin market.

16. KOUS claims that the proposal herein would remove the only available commercial channel from Miles City, precluding it from any additional commercial VHF service. KOUS states that its stockholders are instrumental in the ownership of Station KYUS, Channel 3, in Miles City, and that, while loss of the only remaining commercial allocation to Miles City would give them a virtual monopoly of the market, the loss would not be in the public interest.

17. KOUS claims that our *Notice* recognized that VHF frequencies are the preferred vehicle for establishment of network service, citing *Medford, Oregon*, 43 Fed. Reg. 1503 (1977), but that without the strong possibility of a network affiliation, a new TV proposal for Billings would be economically unfeasible. KOUS also asserts that petitioner's sole object is to get a lower channel number than what is now allocated to Billings, and that this is contrary to Commission policy citing *Vancouver, Washington*, 46 R.R. 2d 1498 (1980).

18. In its reply comments, KTVQ challenges petitioner's claim that the instant proposal would permit the establishment of a third commercial network service in Billings. KTVQ argues that all three major television networks already have primary affiliates in the Billings market and that the assignment of Channel 6 to Billings could only result in a substitution of service, *i.e.*, the NBC affiliation going from Station KOUS to a new station on Channel 6 in Billings and the consequent demise of Station KOUS. KTVQ urges that the Commission should not allow petitioner to ignore the available UHF assignments in Billings and reiterates its assertion that Billings is an ideal location for a UHF station inasmuch as the terrain is not mountainous. KTVQ points to the recent filing of an application for operation on a UHF channel in Missoula, Montana (File No. ARN–820622KE), which is described as an extremely rugged mountainous area.

19. In its reply comments, petitioner charges that, contrary to opposition statements, Billings does not receive three VHF network signals of adequate quality. Petitioner submits an engineering exhibit which shows on a "best case" analysis that Station KOUS-TV, Hardin, does not provide a city-grade signal to about half of Billings. Petitioner further states that its plans are not altered by the new full-time affiliation agreement between KOUS-TV and NBC. Petitioner asserts that it will still pursue an NBC affiliation. Petitioner also states that aside from the issue of affiliation, the city of Billings needs another media voice. Thus, petitioner states it would proceed with an independent station operation, if necessary. Petitioner points out that when VHF channels were originally assigned to Billings and Miles City, Billings was but three times as large as Miles City, whereas now Billings is seven times the size of Miles City. This disparity in population is said to support the conclusion that Billings deserves more VHF assignments than Miles City.

20. As for the alleged loss of current translator service, petitioner notes that translator service is secondary in nature and the Commission does not permit the existence of translators to affect its ultimate decision in Table of Assignment cases. *Anaconda, Butte and Bozeman, Montana*, BC Docket No. 80–13, F.C.C. Mimeo 28482, released November 26, 1980; *Glenwood Springs and Alamosa, Colorado, and Price and Vernal, Utah*, 46 R.R. 2d 1388 (1980); *Washington, D.C. and Fairfax, Virginia*, 46 R.R. 2d 435 (1979).

21. Petitioner asserts that the fact of UHF channels remaining vacant at Billings should not preclude the assignment of VHF channels to the community. *Cf. Notice of Proposed Rule Making*, BC Docket 82–134, F.C.C. Mimeo No. 31010, released March 15, 1982. Petitioner contends that the assignment of a third VHF channel at Billings is dictated by the facts that terrain conditions in Billings prevent effective use of the UHF signals, that the channels have remained vacant since their assignment to Billings in 1952 and that UHF service competing with VHF service is now infeasible.

22. Petitioner states that the *Salt Lake City* and the *Helena and Great Falls, Montana*, cases (pars. 8 and 9, respectively, *supra*) cited in opposition comments are readily distinguishable from the instant case. Petitioner notes that in *Salt Lake City* there were the following differences: assignment of a fourth rather than a third VHF channel; technical problems associated with the assignment of Channel 13; Commission concern about deterring UHF development in the community where an expression of interest in a UHF channel had been made; and Salt Lake City's status as one of the top 50 TV markets where potential for UHF development was greatest. Petitioner asserts that in *Helena and Great Falls, Montana*, the petitioner was the licensee of the only operating station in Helena and sought reassignment of Channel 10 from Helena to Great Falls, as a satellite station. In denying the petition, the Commission noted that Helena would be left without a diversity of local service and such diversity was essential.

23. Petitioner also states that the opposition's arguments as to adequacy of service and lack of viability of another outlet seem economic in nature and stem from their own desire to keep an additional VHF station out of Billings for their own private benefit. Petitioner asserts that it is settled Commission policy to consider economic impact at the application stage rather than in a rule making proceeding. *Sanger, Clovis,*

Visalia and Fresno, California, 49 R.R. 2d 579 (1981); *Beaverton, Michigan*, 44 R.R. 2d 55 (1978); *Hay Springs, Nebraska*, 42 R.R. 2d 1673 (1978); *Grand Junction, Colorado*, 26 R.R. 2d 513 (1973).

24. Three C's Broadcasting Company "(Three C's") filed "Informal comments" herein on August 4, 1982, a day after the deadline for filing reply comments. Three C's stated that it had information which should be considered in this proceeding, *i.e.*, that it tendered for filing on August 2, 1982, an application to operate as a full service television station on Channel 10, Miles City.[3] Three C's requested that the Commission deny petitioner's instant proposal.

25. Petitioner submitted a request pursuant to § 1.415 of our Rules to file an accompanying supplement to its reply comments in order to respond to Three C's comments. In view of the time factors involved and the new matter brought before us, permission is granted.

26. Petitioner states that Three C's knew full well that the filing of its application would effectively thwart petitioner's proposal to substitute Channel 10 as the reserved channel at Miles City in order to permit the use of Channel 6 at Billings. Petitioner shows that the principals of Three C's are also partners in the ownership of Station KOUS–TV which has opposed petitioner's instant proposal. Petitioner asserts that the facts and circumstances underlying the filing of the application raise serious questions concerning the *bona fides* of the Three C's application and the conduct of KOUS and Three C's in this rule making proceeding.

27. Petitioner states that, moreover, the ownership interests and coverage contours of KOUS and of Three C's proposed station would preclude the expansion of service by either facility. Petitioner submits engineering exhibits to show that any significant increase in the Grade B contour of either station would create overlap prohibited by § 73.636(a)(1) of our Rules concerning multiple ownership.

28. Our *Notice of Proposed Rule Making* was based on the following circumstances: Channel *6 had been vacant for over thirty years and we thought that it would be desirable to utilize the channel now that there was an interest. Moreover, the possibility of a noncommercial educational station at Miles City would not be affected inasmuch as Channel 10 would be reserved for such use. Finally, the assignment of Channel 6 to Billings could provide either a third network service on VHF channels or a first independent service.

29. With the filing, however, of an application by Three C's for a construction permit to operate a commercial station on Channel 10 in Miles City the proposed transfer of Channel 6 to Billings would eliminate a reserved VHF channel at Miles City. It has been the Commission's general policy to retain noncommercial educational reserved channels for future use particularly where there are other available commercial channels.[4] We have found another possible VHF commercial channel for Billings which shall be discussed herein. We believe this option is preferable to foreclosing educational VHF service at Miles City in the future. In support of its challenge to Three C's good faith in submitting its application for Channel 10 at Miles City, petitioner cites a number of cases in which the Commission denied applications after adverse findings on issues of good faith including "strike" and blocking applications. In each case, the application had been set for hearing and a good faith issue included. None was in the context of a rule making. None involved the blocking of a channel assignment. The proper place for resolution of the *bona fides* of an application is in the processing of the application itself. We note that petitioner has filed a petition to deny the Three C's application, and, as stated in footnote 3, *supra*,, the petition will be acted upon in the processing of the application.

30. Petitioner also challenges the conduct of KOUS and Three C's in this rule making proceeding. Without going into the merits of petitioner's allegation, we point out that the rule making proceeding is to detemine the needs of a community for a particular channel. The conduct of the parties is a matter more appropriately considered when raised at the application stage for determination as to whether a hearing is necessary.

31. Petitioner's allegation as to the possible overlap problem with regard to the ownership of Station KOUS and the proposed ownership of Channel 10, Miles City, is also a matter to be considered at the application stage. In the event that a public interest finding favored retention of Channel 10 for commercial use in Miles City, the channel would be available to applicants other than Three C's. The question of overlap would pertain to the comparative hearing.

32. With respect to the potential economic impact of petitioner's proposal on Station KOUS, it is, as we stated in *Sanger, Clovis, Visalia and Fresno, California*, 49 R.R. 2d 579, 581 (1981), settled Commission policy that such issues are better considered during the application process than in an assignment proceeding. The decision in *Grand Junction, Colorado*, 26 R.R. 2d 513, 517 (1973), held that any economic impact on the public interest can be better evaluated in passing upon an applicant's proposed use of the new assignment.

33. KTVQ opposes petitioner's instant proposal on the ground that it would cause the loss or substantial reduction of translator service to Miles City and a major part of Custer County. Section 74.202(b) of our Rules provides that changes in the TV Table of Assignments in § 73.606(b) may be made without regard to translator stations. We stated in *Anaconda, Butte and Bozeman, Montana*, 45 FR 78136 (1980), that pursuant to this rule, the Commission has in the past elected not to permit translator stations—the so-called secondary services—to affect its ultimate decision in Television Table of Assignment cases. The translator stations have the option of switching to other frequencies to avoid the interference. In any case, we traditionally favor a new local service to the reception service currently provided by a translator station.

34. We are not without concern about petitioner's proposal to reassign Channel *6 from Miles City to Billings for commercial use. The concern centers upon the consequent deletion of a commercial channel and the current interest in its use. Our staff has determined that VHF Channel 13, now assigned to Lewistown, Montana, could be reassigned to Billings. We do not ordinarily propose the deletion of an only channel in a community, but Channel 13 was assigned to Lewistown in 1952, and no use has been made of the channel for a full service television station. Inasmuch as it has been vacant for 30 years, we believe that the public interest would be served by proposing its reassignment to a community in which an interest for a full service commercial VHF channel has been expressed. We note that the VHF translator now operating on Channel 13 in Lewistown could probably continue to operate in view of the distance between Lewistown and Billings.

35. Use of Channel 13 in Billings would require a site restriction of 7.5 miles southwest to avoid short-spacing to Channel 13+ in Glendive, Montana.

[3] It is to be noted that petitioner filed with the Commission a petition to deny the Three C's application (BPCT820602KF), which will be acted upon in the course of processing the application.

[4] See, *e.g.*, *Houston, Texas*, 50 R. R. 1420 (1982).

As Billings is within 250 miles of the border, Canadian coordination is required.

36. In view of the foregoing, we further propose the following alternatives A and B for amendments to the Television Table of Assignments, § 73.606(b) of the Commission's Rules:

City	Channel No.	
	Present	Proposed
Alternative A:		
Billings, Montana	2, 8, *11, 14, 20+.	2, 6, 8, *11, 14, and 20+.
Miles City, Montana	3–, *6, 10	3–, *10.
Alternative B:		
Billings, Montana	2, 8, *11, 14, 20+.	2, 8, *11, 13, 14, and 20+.
Lewistown, Montana	13	–.

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

38. Interested parties may file comments on or before May 9, 1983, and reply comments on or before May 24, 1983, and are advised to read the Appendix for the proper procedures.

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

40. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632–5414. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8643 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-227; RM-4320]

Television Broadcast Station in McCook, Nebraska; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 16 to McCook, Nebraska, as its second TV assignment, in response to a petition filed by Jerrell E. Kautz.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (McCook, Nebraska); MM Docket No. 83-227, RM-4320.

Adopted: March 14, 1983.
Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. Jerrell E. Kautz ("petitioner"),[1] on January 3, 1983, submitted a petition for rule making requesting the assignment of UHF Television Channel 14 to McCook, Nebraska, as a second television assignment. Petitioner stated an interest in applying for the channel, if assigned.

2. McCook (population 8,404),[2] seat of Red Willow County (population 12,615), is located in southwestern Nebraska, approximately 400 kilometers (250 miles) southwest of Omaha. McCook is presently assigned VHF Channel 8 (KSNK-TV).

3. Petitioner describes McCook as a growing community with a need for additional broadcast services. Petitioner claims that Station KSNK-TV (McCook), does not provide adequate coverage of local issues.[3] Therefore, he proposes to operate a second local service as an independent station rather than a network affiliate.

4. A Channel 14 assignment to McCook would be short-spaced to a Channel 14 assignment at Hays, Kansas. The distance between the cities is 141 miles, whereas 175 miles is required. A staff study indicates that Channel 16 can be assigned to McCook, and meet all the spacing requirements without a site restriction. Therefore, we shall propose Channel 16 for McCook, Nebraska.

5. Based on the information provided by the petitioner, we believe that an adequate showing has been made for a second television assignment to McCook, Nebraska. Comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, with regard to the following city:

City	Channel No	
	Present	Proposed
McCook, Nebraska	8-	8-, 16+

[1] Jerrell E. Kautz is the licensee of Station KXMC-FM, McCook, Nebraska.

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

[3] Petitioner claims that the lack of city coverage is largely due to the fact that Station KSNK-TV is used in Oberlin, Kansas, as an affiliate of the Kansas State Network, broadcasting from Wichita. Petitioner alleges that Station KSNK-TV provides McCook with no local programming, except 15 minutes local news daily (six days a week).

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

7. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-8842 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-191; RM-4352]

FM Broadcast Station in Farmington, New Mexico; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 283 to Farmington, New Mexico, in response to a petition filed by John E. Kessler. The proposed assignment could provide a third FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of an Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Farmington, New Mexico); MM Docket No. 83-191, RM-4352.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 12, 1983, by John E. Kessler ("petitioner"), proposing the assignment of Channel 297 to Farmington, New Mexico, as its fourth [1] FM assignment. Petitioner submitted information in support of the proposal but failed to state that he would apply for the channel, if assigned. He is expected to do so in his comments.

2. This petition was filed as a counterproposal to Docket No. 82-832, which proposed the assignment of FM Channel 297 to Cascade Village, Colorado. Petitioner requested that FM Channel 297 be assigned to Farmington, New Mexico, instead. However, this channel cannot be assigned to both Cascade Village, Colorado, and Farmington, New Mexico. A staff channel search indicates that, as an alternative, Channel 283 can be assigned to Farmington in accordance with our spacing requirements.

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

City	Channel number	
	Present	Proposed
Farmington, New Mexico	225, 245	225, 245, 271, 283

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

5. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and

[1] Another proceeding is pending proposing to assign FM Channel 271 to Farmington, New Mexico, as its third FM channel. (BC Docket 82-718)

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

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

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

[FR Doc. 83-8041 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-235; RM-4318]

FM Broadcast Stations in Carrington, North Dakota; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of FM Channel 252A for Channel 249A at Carrington, North Dakota, to avoid shortspacing to the proposed relocation of Station KFNW-FM (Channel 250), Fargo, North Dakota. The action is proposed in response to a petition from Northwestern College.

DATES: Comments must be filed on or before May 12, 1983, and reply comments must be filed on or before May 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Carrington, North Dakota); MM Docket No. 83-235, RM-4318.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Northwestern College ("petitioner"), licensee of Station KFNW-FM (Channel 250), Fargo, North Dakota, proposing the substitution of FM Channel 252A for Channel 249A at Carrington, North Dakota.

2. In support of its request, petitioner advises that it desires to relocate its transmitter due to certain aeronautical constraints inherent in its current location which prevent full utilization of its existing facility. In this regard, petitioner states that it was recently given permission to relocate its antenna to an existing shared-use broadcast tower near Amenia, North Dakota. However, petitioner states that use of this proposed tower would result in short-spacing to Channel 249A at Carrington, North Dakota.[1] Therefore, in order to resolve this conflict, petitioner proposes the substitution of Channel 252A for Channel 249A, which meets the applicable minimum distance separation requirements of § 73.207 of the Commission's Rules. Petitioner states that the proposed channel substitution and subsequent relocation of its antenna would provide it the flexibility needed to achieve greater coverage.

3. As a final matter, petitioner, while acknowledging that the current applicant for Channel 249A has no protected rights to that channel and is subject to the Commission's ultimate determination of whether the proposal is consistent with the public interest, nevertheless expressed its willingness to reimburse the Carrington applicant for reasonable costs associated with the channel change. The Commission takes no position on this matter.

4. We believe that petitioner's proposal warrants consideration. The channel can be substituted consistent with the applicable mileage separation requirements. However, since Carrington is located within 200 miles of the common U.S.-Canadian border, Canadian approval of the proposal is required.

5. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to Carrington, North Dakota, as follows:

City	Channel number	
	Present	Proposed
Carrington, North Dakota	249A	252A

6. The Secretary shall send a copy of this *Notice of Proposed Rule Making* to Carrington Broadcasting, Inc., 859 Main Street, Carrington, North Dakota, 58421, the applicant for Channel 249A at Carrington.

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

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

8. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

[1] Currently, an application is on file for Channel 249A at Carrington, North Dakota, by Carrington Broadcasting, Inc. (File No. 821007AK). If the channel assignment at Carrington is changed, the applicant will be permitted to amend its application to specify the newly-assigned channel.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8834 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-229; RM-4330]

FM Broadcast station in Woodward, Oklahoma; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 240A to Woodward, Oklahoma, in response to a petition filed by Tyler Todd. The proposal could provide a fifth FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Woodward, Oklahoma); MM Docket No. 83-229, RM-4330.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 3, 1983, by Tyler Todd ("petitioner"), seeking the assignment of Channel 252A to Woodward, Oklahoma, as its fifth FM assignment. Petitioner submitted information in support of his request and expressed his interest in applying for the channel, if assigned.

2. The assignment of Channel 252A to Woodward, Oklahoma, would be short-spaced to proposals to add Channel 253 to either Clinton, Oklahoma, or Elk City, Oklahoma (See Docket No. 82-833). However, FM Channel 240A is available at Woodward as an alternative. The channel can be assigned in compliance with the minimum distance separation requirements.

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

City	Channel number	
	Present	Proposed
Woodward, Oklahoma	221A, 228A, 266, 272A	221A, 228A, 240A, 266, 272A

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

5. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of

Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merit of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), and 303(g) and (f), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8839 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-233; RM-4315]

FM Broadcast Stations in Dimmit, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 240A to Dimmit, Texas, in response to a petition filed by JLP Media, Inc. The proposed assignment could provide a first local FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Dimmit, Texas); MM Docket No. 83-233, RM-4315.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 11, 1983, by JLP Media, Inc. ("petitioner"), proposing the assignment of Channel 240A to Dimmit, Texas, as its first local FM service. Petitioner submitted information in support of its request and expressed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

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

City	Channel No.	
	Present	Proposed
Dimmit, Texas		240A

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

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

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignements,

§ 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the commission's rules,* 46 FR 11549, published February 9, 1981.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8836 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-239; RM-4360]

FM Broadcast Stations in Springfield, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first FM assignment to Springfield, Florida, in response to a petition filed by Matthew D. Wiggins.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Springfield, Florida); MM Docket No. 83–239, RM–4360.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 24, 1983, by Matthew D. Wiggins ("petitioner"), which seeks the assignment of Channel 240A [1] to Springfield, Florida. Petitioner stated his intention to apply for the channel, if assigned. The channel can be assigned in full compliance with the minimum spacing requirements of § 73.207 of the Rules.

2. The petitioner submitted population and economic data in an effort to demonstrate a need for the requested assignment. In view of the action taken in *Revision of FM Policies and Procedures,* 90 F.C.C. 2d 88 (1982), that information is no longer needed for this type of proceeding.

3. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows for the community listed below:

[1] Petitioner requested the assignment of Channel 288A to Springfield, Florida. However, due to pending rule makings for Mary Esther, Florida (Channel 288A), BC Docket No. 82–719, and for Appalachicola, Florida (Channel 290), RM–4317, Channel 288A is not available for Springfield. Since Channel 240A can be assigned to Springfield without a site restriction, this *Notice* has substituted that channel for consideration.

City	Channel No.	
	Present	Proposed
Springfield, Florida		240A

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

5. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8809 Filed 4-4-83; 8:45]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-240; RM-4345]

Television Broadcast Stations in Morehead, Kentucky; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 67 to Morehead, Kentucky, in response to a petition filed by Stanley G. Emert. The assignment could provide Morehead with its first local commercial television service.

DATES: Comments must be filed on or before May 12, 1983, and reply comments must be filed on or before May 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rulemaking

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Morehead, Kentucky); MM Docket No. 83-240, RM-4345.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Stanley G. Emert ("petitioner"), seeking the assignment of UHF Television Channel 67 to Morehead, Kentucky, as that community's first commercial television assignment. Petitioner indicates that he, or an entity

of which he is a part, will apply for the channel, if assigned as proposed.

2. Morehead (population 7,789),[1] the seat of Rowan County (population 19,049), is located in northeastern Kentucky, approximately 145 kilometers (90 miles) southeast of Cincinnati, Ohio. It is currently served by educational station WKMB (Channel *38), but has no local commercial television service.

3. According to information supplied by petitioner, Morehead's economic base should be sufficient to support a commercial television assignment.

4. A staff engineering study reveals that Channel 67 could be assigned to Morehead, Kentucky, with a minus carrier offset, provided that a change in channel offset is also effectuated on unused co-channel *67– in Bryson City, North Carolina, from minus to zero. Such action is necessary to satisfy the requirements of our Rules for minimum distance separations to co-channel stations.

5. Because Morehead, Kentucky, is located within 250 miles of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

6. In view of the foregoing and the fact that the proposed assignment would provide a first local commercial television broadcast service to Morehead, Kentucky, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Morehead, Kentucky	*38+	*38+ and 67–
Bryson City, North Carolina	*67–	*67.

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

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

8. Interested parties may file comments on or before May 12, 1983 and reply comments on or before May 27, 1983 and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8810 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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

47 CFR Part 73

[MM Docket No. 83-245; RM-4288]

TV Broadcast Stations in New Orleans, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 49 to New Orleans, Louisiana, as its seventh commercial television station, in response to a petition filed by Millard V. Oakley.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (New Orleans, Louisiana); MM Docket No. 83-245, RM-4288.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. Millard V. Oakley ("petitioner"), on December 30, 1982, submitted a petition for rule making requesting the assignment of UHF Television Channel 49 to New Orleans, Louisiana, as its seventh commercial television assignment. Petitioner stated that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. New Orleans (population 557,482)[1], in Orleans Parish, is located at the mouth of the Mississippi River on the Gulf of Mexico. New Orleans is presently assigned commercial Channels 4 (WWL-TV), 6 (WDSU-TV), 8 (WVUE(TV)), 20 (MULT-TV), 26 (WGNO-TV) and 38 (construction permit pending); also noncommercial Channels *12 (WYES-TV) and *32 (WLAE-TV).

3. In support of his request, petitioner submitted population data for the year 1981. Petitioner also submitted 1981 statistics for total and per household spendable income and retail sales for Orleans Parish.[2]

4. We believe that the petitioner's proposal warrants consideration. The proposal meets all spacing requirements and could provide for a seventh commercial television station. Comments are invited on the proposal to amend the Television Table of Assignments, with regard to the following community:

City	Channel No.	
	Present	Proposed
New Orleans, Louisiana	4+, 6, 8-, *12, 20-, 26, *32+, and 38+.	4+, 6, 8-, *12, 20-, 26, *32+, 38+, and 49.

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

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

6. Interested parties may filed comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

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

[2] Information was extracted from Standard Rate & Data Service, Inc.

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

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

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

[FR Doc. 83-8814 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-243; RM-4284]

Television Broadcast Stations in Greenville, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a fourth television assignment to Greenville, North Carolina, in response to a petition filed by Millard V. Oakley.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Greenville, North Carolina); MM Docket No. 83-243, RM-4284.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. Millard V. Oakley ("petitioner"), on December 29, 1982, submitted a petition for rule making requesting the assignment of UHF television Channel 38 to Greenville, North Carolina, as a third commercial television assignment. Petitioner stated that he or an entity of which he is a part, will apply for the channel, if assigned.

2. Greenville (population 2,865),[1] seat of Pitt County (population 83,651) is located in eastern North Carolina, approximately 110 kilometers (70 miles) southeast of Raleigh. It is presently assigned commercial Channels 9 and 14, and noncommercial educational Channel *25.

3. In support of his request, petitioner submitted 1981 population data for the city and county. Petitioner also submitted 1981 spendable income and retail sales statistics.[2]

4. We believe that the petitioner's proposal warrants consideration. The proposal meets all spacing requirements and could provide for a third commercial television station to Greenville. Comments are invited on the proposal to amend the Television Table of Assignments, with regard to the following community:

City	Channel No.	
	Present	Proposed
Greenville, North Carolina	9-, 14, and *25.	9-, 14, *25, and 38+.

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

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

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

[2] Information was extracted from the *Standard Rate & Data Service, Inc.* of Skokie, Illinois.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

(a) Counterproposals advanced in this proceeding itself will be considered, if

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

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

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

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

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

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

[FR Doc. 83-8812 Filed 4-4-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-241; RM-4296]

TV Broadcast Stations in Tulsa, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 53 to Tulsa, Oklahoma, as its ninth television assignment, in response to a petition filed by Harry C. Powell, Jr.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Tulsa, Oklahoma); MM Docket No. 83-241 RM-4296.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 3, 1983, by Harry C. Powell, Jr. ("petitioner"), seeking the assignment of UHF Television Channel 53 to Tulsa, Oklahoma, as its ninth television assignment. The channel can be assigned in compliance with the minimum distance separation requirements and other criteria.

2. Tulsa (population 360,919),[1] seat of Tulsa County (population 470,593), is located in northeastern Oklahoma, approximately 150 kilometers (92 miles) northeast of Oklahoma City.

3. Petitioner submitted information in support of his request and expressed his interest in applying for the channel, if assigned.

4. In view of the fact that Tulsa could receive its ninth television service, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Tulsa, Oklahoma	2+, 6+, 8-, *11-, 23, *35-, 41+, and 47.	2+, 6+, 8-, *11-, 23, *35-, 41+, 47, and 53.

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

6. Interested parties may file comments on or before May 12, 1983 and reply comments on or before May 27, 1983 and are advised to read the Appendix for the proper procedures.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (i), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule*

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

Making to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8811 Filed 4-4-83; 8:45 am]
BILLING CODE 4310-55-C

47 CFR Part 73

[MM Docket No. 83-237; RM-4355]

FM Broadcast Stations in Hilton Head Island, South Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 296A to Hilton Head Island, South Carolina, in response to a petition filed by Inter-Island Broadcasters. The proposed assignment could provide a third FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Hilton Head Island, South Carolina); MM Docket No. 83-237, RM-4355.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Inter-Island Broadcasters on January 21, 1983, proposing the assignment of Channel 296A to Hilton Head Island, South Carolina, as its third FM assignment. Petitioner submitted information in support of its proposal [1] and expressed an interest in filing for the channel, if assigned. A site restriction of 1.1 miles south of Hilton Head Island is required.

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

City	Channel No.	
	Present	Proposed
Hilton Head Island, South Carolina	288A, 292A	288A, 292A, 296A

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

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

[1] Petitioner submitted population, economic and demographic data demonstrating the need for a third FM assignment to Hilton Head Island, South Carolina. However, in view of the action taken in the *Second Report and Order* in BC Docket No. 80-130, 90 F.C.C. 2d 88 (1982), the information is no longer required.

the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8807 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-238; RM-4348]

FM Broadcast stations in Galveston, Texas; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 285A to Galveston, Texas, in response to a petition filed by William T. Conner. The proposed assignment could provide a second FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Galveston, Texas); MM Docket No. 83-238, RM-4348.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 13, 1983, by William T. Conner ("petitioner") proposing the assignment of Channel 285A to Galveston, Texas, as its second FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. A site restriction of 4.4 miles northeast of Galveston is required to avoid short-spacing to Station KFRD-FM, Channel 285A in Rosenberg, Texas.

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

City	Channel No.	
	Present	Proposed
Galveston, Texas	293	285A, 293

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

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 3.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 F.R. 114549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8808 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-244; RM-4307]

FM Broadcast stations in Milwaukee, Wisconsin; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 58 to Milwaukee, Wisconsin, as its ninth television assignment, in response to a petition filed by Harry C. Powell, Jr.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Milwaukee, Wisconsin); MM Docket No. 83–244, RM–4307.

Adopted: March 14, 1983.

Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by Harry C. Powell, Jr. ("petitioner") seeking the assignment of UHF Television Channel 58 to Milwaukee, Wisconsin, as its ninth television assignment. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Milwaukee (population 636,212) [1], seat of Milwaukee County (population 964,988) is located on Lake Michigan, approximately 127 kilometers (80 miles) north of Chicago, Illinois.

3. Since the proposed assignment of UHF Channel 58 to Milwaukee, Wisconsin, is within 402 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

4. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned.

5. In view of the fact that Milwaukee could receive its ninth television assignment, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the city of Milwaukee, Wisconsin, as follows:

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

City	Channel No.	
	Present	Proposed
Milwaukee, Wisconsin.	4-, 6, *10+, 12, 18- 24+, 30, and *36.	4-, 6, *10+, 12, 18-, 24+, 30, *36, and 58.

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

7. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

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

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

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 306)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

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

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

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

[FR Doc. 83-8813 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed 1983-84 Migratory Game Bird Hunting Regulations (Preliminary)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service proposes to establish hunting seasons, daily bag and possession limits, and shooting hours for designated groups or species of migratory game birds in the contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands during 1983-84. The Service annually prescribes migratory bird hunting regulations. These regulations provide hunting opportunity, a popular form of outdoor recreation, to the public and aid Federal and State governments in the management of migratory game birds.

DATES: The comment period for proposed regulations frameworks for Alaska, Puerto Rico, and the Virgin Islands will end on June 22, 1983; for early season proposals (seasons opening before October 1) on July 15, 1983; and for late season proposals (seasons opening on or about October 1 or later) on August 19, 1983. Public Hearings: Early Season Regulations, including those for Alaska, Puerto Rico, and the Virgin Islands—June 22, 1983, at 9 a.m.; Late Season Regulations—August 2, 1983, at 9 a.m. Both public hearings will be held in the Auditorium, Interior Department Building, 18th and C Streets, NW., Washington, D.C.

ADDRESSES: Comments and requests to testify may be mailed to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received may be inspected from 8 a.m. to 4 p.m. at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; (AC 202–254–3207).

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service proposes to establish hunting seasons, bag and possession limits, and shooting hours for migratory game birds during 1983–84 under §§ 20.101 through 20.107 of subpart K of 50 CFR Part 20.

"Migratory game birds" are those migratory birds so designated in conventions between the United States and several foreign nations for the protection and management of these birds. During the 1983–84 hunting season, regulations are proposed for certain designated members of the avian families *Anatidae* (ducks, geese, brant and swans); *Columbidae* (doves and pigeons); *Gruidae* (cranes); *Rallidae* (rails, coots, and gallinules); and *Acolopacidae* (woodcock and snipe). These proposals are described under Proposed 1983–84 Migratory Game Bird Hunting Regulations (Preliminary) in this document.

Notice of Intention to Establish Open Seasons

This notice announces the intention of the Director, U.S. Fish and Wildlife Service, to establish open hunting seasons, daily bag and possession limits, and shooting hours for certain designated groups or species of migratory game birds for 1983–84 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

Factors Affecting Regulations Process

This is the first in a series of proposed and final rulemaking documents for migratory bird hunting regulations. Proposed season frameworks, shooting hours, and daily bag and possession limits are set forth for various groups of migratory game birds for which these regulations ordinarily do not vary significantly from year to year.

The proposals set forth here and the schedule by which more detailed proposals for these and other species will be developed depend upon a number of factors. Among these are the times when various annual population, habitat, and harvest surveys are conducted and results are available for analysis; times of migration and other biological considerations; and times during which hunting may be allowed. The regulatory process for migratory game birds is strongly influenced by the times when the best and latest information is available for consideration in the development of regulations. For these reasons, the overall regulations process for hunting seasons and limits is divided into the following segments: (1) Regulations for migratory game birds in Alaska, Puerto Rico, the Virgin Islands, and Hawaii; (2) seasons in the remainder of the United States opening prior to October 1 (early seasons); and (3) seasons opening in the remainder of the United States about October 1 and later (late seasons). Regulations development for each of the three categories will follow similar but independent schedules. Proposals relating to the harvest of migratory game birds that may be initiated after publication of this proposed rulemaking will be made available for public review in supplemental proposed rulemakings to be published in the **Federal Register.** Also, additional supplemental proposals will be published for public comment in the **Federal Register** as population, habitat, harvest, and other information becomes available.

Because of the late dates when certain of these data become available, it is anticipated that comment periods on some proposals will necessarily be abbreviated. Special circumstances that limit the amount of time which the Service can allow for public comment are involved in the establishment of these regulations. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on one hand, to establish final rules at a time early enough in the summer to allow State agencies to adjust their licensing and regulatory mechanisms and, on the other hand, the lack before late July of current data on the status of most waterfowl.

Publication of Regulatory Documents

The process relating to the establishment of migratory bird hunting regulations in the United States involves a series of regulatory announcements published in the **Federal Register** in accordance with the Administrative Procedures Act. The publication of these documents is divided into three phases, as follows:

1. Proposed rulemakings—proposals to amend Subpart K (and other subparts when necessary) of 50 CFR Part 20, including supplementary proposed migratory game bird hunting regulations, and/or regulations frameworks which prescribe season lengths, bag and possession limits, shooting hours, and outside dates within which States may make season selections.

2. Final rulemakings—frameworks. Final migratory game bird regulations frameworks which prescribe season lengths, bag and possession limits, shooting hours, and outside dates within which States may make season selections.

3. Final rulemakings—season selections. Amendments to the various specific sections of Subpart K (and other subparts when necessary) of 50 CFR Part 20 based on the final regulations frameworks and on season selections communicated by the States to the Service.

On February 10, 1983, the Service received a letter from Mr. Dwight Wilcox, Biologist, White Earth Reservation Business Committee, White Earth, Minnesota, containing several specific recommendations. He recommended that Indian Reservations with treaty hunting and fishing rights be permitted to propose seasons outside the frameworks recommended for states. Such seasons would be based on historical, traditional or sustenence harvests or assure the political integrity, economic security, health or welfare of its people. Any such harvest proposal would also show biological justification as to the need of seasons outside of the recommended season or that such a season will not have a significant detrimental effect on local or migratory bird populations. Also, any such season would be established as experimental during which time appropriate studies would be done to document actual impacts and that based on the results of those studies the seasons may be permanently adopted, modified, or rescinded to mitigate the significant damages.

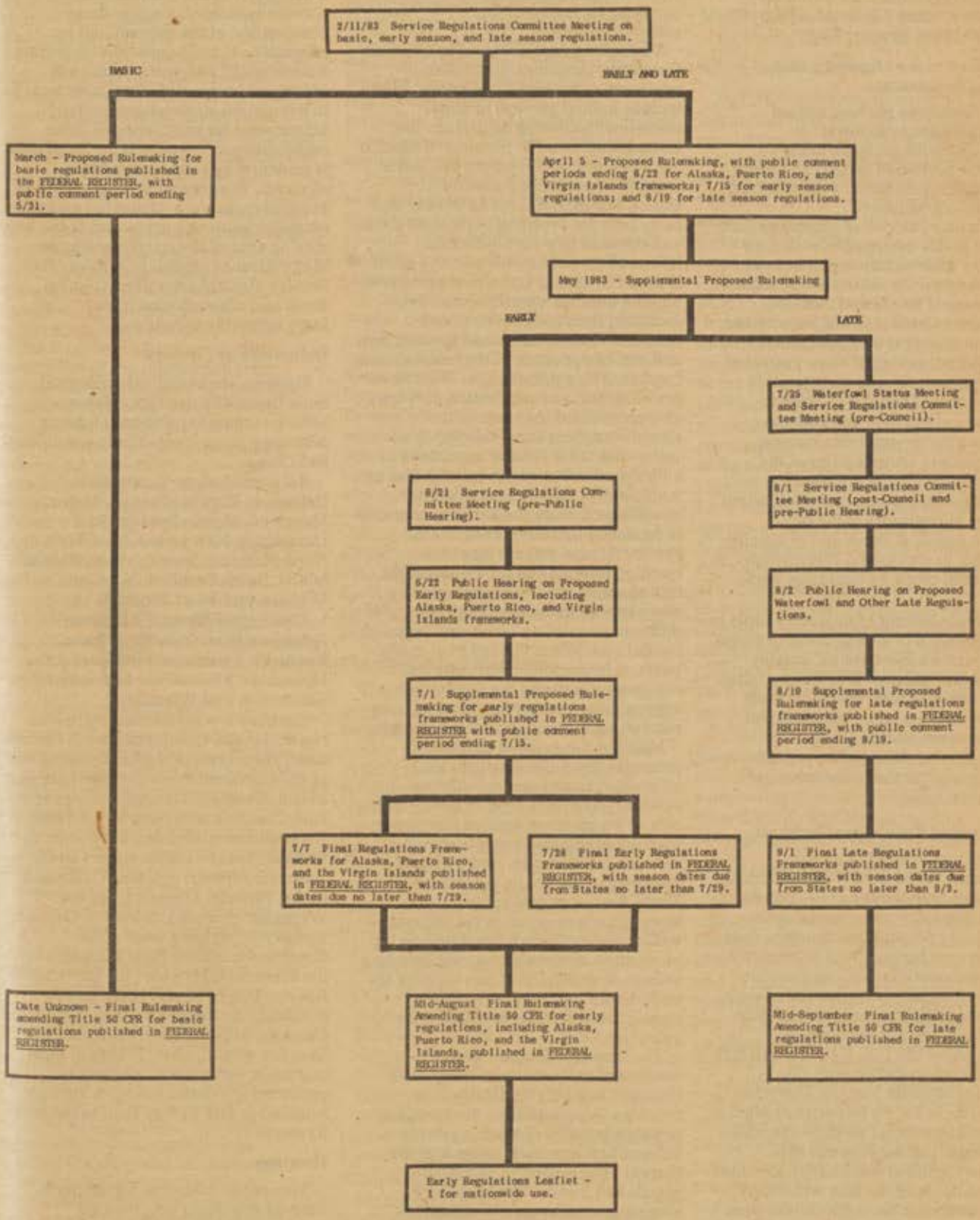
This request relates to certain aspects of the management of waterfowl and waterfowl hunting on Indian Reservations that have been a matter of concern to Indian groups in the north

central part of the United States for several years. The Service intends to give the request careful review and consideration in the next few weeks. No changes in procedures relating to the selection of hunting season dates and options by State conservation agencies are proposed pending completion of the review.

Major steps in the 1983–84 regulatory cycle relating to public hearings and **Federal Register** notifications are illustrated in the accompanying diagram.

BILLING CODE 4310-55-M

1983 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS



BILLING CODE 4310-55-C

All dates shown for frameworks and seasons in the Service's regulatory documents are inclusive.

Non-toxic shot regulatory proposals and final regulations are published separately under § 20.21 of subpart C and § 20.108 of Subpart K.

Objectives of the Migratory Bird Hunting Regulations

The objectives of these annual regulations are as follows:

(1) To provide an opportunity to harvest a portion of certain migratory game bird populations by establishing legal hunting seasons.

(2) To limit harvest of migratory game birds to levels compatible with their ability to maintain their populations.

(3) To avoid the taking of endangered or threatened species so that their continued existence is not jeopardized, and their conservation is enhanced.

(4) To limit taking of other protected species where there is a reasonable possibility that hunting is likely to adversely affect their populations.

(5) To provide equitable hunting opportunity in various parts of the country within limits imposed by abundance, migration, and distribution patterns of migratory game birds.

(6) To assist, at times and in specific locations, in preventing depredations on agricultural crops by migratory game birds.

The management of migratory birds in North America is international in scope, and involves other nations, notably Canada and Mexico. Within the United States, other Federal agencies, State conservation agencies, national and regional conservation groups, universities, and the public provide much support to the achievement of these objectives.

Data Used in Regulatory Decisions

The establishment of hunting regulations for migratory game birds in the United States during the 1983–84 season will take into consideration available population information, data from harvest surveys, and information on habitat conditions. Consideration will also be given to accumulated data and trends. The main sources of data result from operational surveys conducted by the U.S. Fish and Wildlife Service in cooperation with the Canadian Wildlife Service, Direccion General de la Fauna Silvestre of Mexico, State and Provincial wildlife agencies, and others. The Service will also consider technical information provided by consultants of the four waterfowl flyway councils. The information from these sources will be analyzed by the Fish and Wildlife Service with an opportunity for the public to review and provide comments on management rationales and proposed regulations, either in public hearings, by correspondence, or other communications.

Various surveys are used to ascertain the status, condition, and trends of migratory game bird populations. These include annual surveys of major waterfowl wintering habitats in the United States and in portions of Mexico each January; aerial surveys of major waterfowl production areas in the United States and Canada in May and early June for breeding population data, and again in July for production information; nationwide surveys in the United States and Canada of waterfowl hunters and the waterfowl harvest, including their geographical and temporal distributions, and species, age, and sex composition of the harvest; and band recovery information. Waterfowl breeding pair and production surveys also provide information on the abundance, duration, and quality of water and other habitat conditions in major production areas. Information on waterfowl populations and habitat conditions outside the aerial survey area is furnished by cooperating State, Provincial, and private agencies. Banding information provides insight into shooting pressures sustained by migratory game bird populations under different population levels and types of regulations. When viewed over many years, information on harvests and regulations is useful for predicting approximate harvest levels which may result from various regulation changes.

Many of the surveys conducted primarily for ducks also provide information on geese. In addition, satellite imagery is used to monitor the rate at which snow and ice disappear from subarctic and arctic breeding grounds traditionally used by most species and the greatest numbers of North American geese. Field observations of geese in the fall and winter also provide information on the production success of the past breeding season. Special population surveys are undertaken for many identifiable populations of geese throughout the year.

The annual call-count survey conducted nationwide in the United States in late May and early June provides information on the breeding population index of mouring doves. Information from past years and the current year is used to establish population trends. The woodcock singing-ground survey is conducted throughout the breeding range of the species in the eastern United States and Canada. Insight into production success is provided by wing-collection surveys of woodcock hunters in the United States and Canada; data from these surveys indicate the age and sex composition of the harvest and its geographical and temporal distribution. Accumulated and current data are examined for possible long-term trends in population size and productivity. Information on white-winged dove populations in Texas and the Southwest is provided by cooperating State agencies. Winter and spring surveys of sandhill cranes are conducted annually on major wintering areas and at the key staging area of the species along the Platte River in central Nebraska. The Service also solicits information on these and other species from knowledgeable individuals.

Definitions of Flyways

Flyways are biological-ecological units frequently used for reference in setting hunting regulations on many migratory game birds. These are defined as follows:

Atlantic Flyway: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas; Colorado and Wyoming east of the Continental Divide; Montana east of Hill, Chouteau Cascade, Meagher and Park Counties; and New Mexico east of the Continental Divide but outside the Jicarilla Apache Indian Reservation.

Pacific Flyway: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof. Flights of most migratory game birds breeding or produced in Alaska are more strongly oriented to this flyway than to the other flyways.

Hearings

Two public hearings pertaining to 1983–84 migratory bird hunting regulations are scheduled. Both

meetings will be conducted in accordance with 455 DM 1 of the Departmental Manual. On June 22 a public hearing will be held at 9 o'clock in the Auditorium of the Department of the Interior Building, on C Street, between 18th and 19th Streets, NW., Washington, D.C. This hearing is for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe. Proposed hunting regulations will be discussed for these species plus regulations for sandhill cranes in some States; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons; other duck seasons in September; and special sea duck seasons in the Atlantic Flyway. On August 2 a public hearing will be held at 9 o'clock in the Auditorium of the Department of the Interior Building, address above. This hearing is for the purpose of reviewing the status and proposed regulations for those waterfowl and other migratory game birds for which regulations were not previously formulated. The public is invited to participate in both hearings.

Persons wishing to participate in these hearings should write the Director (FWS/MBMO, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, or telephone AC 202–254–3207. Those wishing to make statements should file copies of them with the Director before or during each hearing.

Public Comments Solicited

Based on the results of current migratory game bird studies and having due consideration of all data and views submitted by interested parties, the amendments resulting from these proposals will specify open seasons, shooting hours, and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common snipe, coots, cranes, and waterfowl; coots, cranes, common snipe and waterfowl in Alaska; sea ducks in coastal waters of certain eastern States; migratory game birds in Puerto Rico and the Virgin Islands; and mourning doves in Hawaii.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons are invited to submit written comments, suggestions, or recommendations regarding the proposed amendments.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals.

Final promulgation of migratory bird hunting regulations will take into consideration all comments received by the Director. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals. Interested persons are invited to participate in this rulemaking by submitting written comments as follows:

For comments on Proposed 1983–84 Migratory Game Bird Hunting Regulations (preliminary) write to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C.

Comments received on the proposed annual regulations will be available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C. The Service will acknowledge but may not respond in detail to each comment. Specific comment periods will be established for each of the three series of proposed rulemakings. All relevant comments will be accepted through the closing date of the last comment period on the particular proposal under consideration. As in the past, the Service will summarize all comments received during the comment period and respond to them.

Flyway Council Meetings

The Service published a final rule in the **Federal Register** dated December 22, 1981 (46 FR 62077) which established certain procedures in the development of the annual migratory bird hunting regulations. This rule took effect on January 21, 1982. One provision is to publish notification of meetings of waterfowl flyway councils where Department officials will be in attendance. In this regard, Departmental representatives will be present at the following spring meetings of the various flyway councils:

Dates: March 19, 1983:

March 20, 1983

Atlantic Flyway Council, 1 p.m.
Mississipi Flyway Council, 9 a.m.
Central Flyway Council, 8:30 a.m.
Pacific Flyway Council, 10:00 a.m.
National Waterfowl Council, 3 p.m.

Address: Council meetings will be held at the Radisson Muehlebach Hotel, Kansas City, Missouri, as follows:

Atlantic Flyway Council, Room 4, Mezzanine Level;
Mississippi Flyway Council, Trianon D, Trianon Level;
Central Flyway Council, Muehlebach A, Mezzanine Level;
Pacific Flyway Council, Lido Room, Trianon Level;
National Waterfowl Council, Colonial Ballroom, Mezzanine Level;

NEPA Consideration

In 1975 the Service determined that the annual migratory bird hunting regulations constituted a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. Consequently, the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was prepared and filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. These have addressed regulations for various species of migratory game birds and hunting strategies. Among the latter is an environmental assessment on a 5-year cooperative study of stabilized duck hunting regulations underway with Canada. Inasmuch as the assessment addressed the entire 5-year study, no additional assessment is required for 1983–84, the fourth season of stabilized hunting regulations.

Although the 1975 FES is now out of print, copies of the various environmental assessments which supplement it are available upon request from the Office of Migratory Bird Management (address given previously).

Endangered Species Act Consideration

Prior to issuance of the 1983–84 migratory game bird hunting regulations, consideration will be given to provisions of the Endangered Species Act of 1973, and as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to insure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of this Act may cause changes to be made to proposals in this and future supplemental proposed rulemaking documents.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In complying with these requirements during the 1981–82 regulatory development cycle, and with Office of Management and Budget concurrence, the Service prepared a Determination of Effects, a Preliminary Regulatory Impact Analysis (PRIA), a Final Regulatory Impact Analysis (FRIA), and a Memorandum of Law. For further information see the **Federal Register**: March 25, 1981, at 46 FR 18669; August 17, 1981, at 46 FR 41739; August 21, 1981, at 46 FR 42643; and September 18, 1981, at 46 FR 46543. The FRIA which was issued by the Service on June 22, 1981, was announced to the public in the **Federal Register** dated August 17, 1981 (at 46 FR 41739). The rules for the 1981–82 hunting season were determined to be "major," because the expenditures arising from these regulations exceed $100 million annually and represent a major Federal action.

A Determination of Effects approved by the Assistant Secretary, Fish and Wildlife and Parks, on February 3, 1982 concluded that the hunting frameworks being proposed for 1982–83 were "major" rules, subject to regulatory analysis. Discussions with Office of Management and Budget officials indicated that inasmuch as little new pertinent information of data had accrued since the issuance of the 1981 FRIA, it would be satisfactory for the Service to update its analysis for the 1982 migratory bird hunting proposed and final rules.

An updated FRIA analysis, focusing on waterfowl hunting, was completed by the Service on February 18, 1982. No new economic data or information had come to light since the 1981 FRIA was issued. Using Consumer Price Index information, the Service updated its estimate of 1975 expenditures arising from waterfowl hunting to $311 million January 1982 dollars. The 1975 estimate of 1981 expenditures for migratory bird hunting was similarly revised from $949 million to $1.58 billion.

The Service recently prepared an update of its 1981 Final Regulatory Impact Analysis for use in the development of the 1983–84 migratory bird hunting regulations. This analysis focused on two sources of new data: (1) Economic data contained in the recently issued report titled *1980 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation;* and (2) waterfowl hunter activity and harvest information for the 1981–82 season. As in the past, emphasis was given to duck hunting regulations and economics. The summary of the 1983 update of the 1981 FRIA follows:

Stabilized regulations were again in effect during the 1982–83 season. New information which could be compared to that appearing in the 1982 update of the 1981 FRIA included estimates of the 1981 fall flight of ducks from surveyed areas, and hunter activity and harvest information from the 1981–82 hunting season. These data were presented by flyways, and for the U.S. Fall flights of waterfowl were depressed modestly in the Central, Mississippi, and Pacific Flyways. The decrease was less than the 10 percent considered necessary to represent a change. Hunter activity, both in numbers of hunters and total days spent afield, decreased in all flyways more than the fall flight reductions. These findings support relationships identified in the 1981 FRIA and 1982 update, and again demonstrate that hunter numbers and days spent afield vary considerably from year to year, even though hunting season frameworks are unchanged. Hunter participation, including expenditures, is influenced by several non-regulatory considerations, including weather, local availability and vulnerability of ducks, habitat conditions, and conditions of the economy. Also, States sometimes do not select comparable seasons and options each year from the Federal frameworks.

The only new economic information is from the *1980 National Survey of Fishing, Hunting, and Wildlife, and Wildlife-Associated Recreation.* Although more plausible than 1975 National Survey data, the new findings were of limited usefulness because of differences in survey procedures and data completion. Little information was specific to duck hunting, the basis of the 1981 FRIA. No new information on the economic impacts of duck hunting on "small entities" is available.

Copies of the supplemental FRIA are available upon request from the Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

The Department of the Interior has determined that this document is a major rule under E.O 12291 and certifies that this document will 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 contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Service plans to issue its Memorandum of Law for the migratory bird hunting regulations at the time the first of these rules is finalized.

Authorship.

The primary author of the proposed rules on annual hunting regulations is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief, AC 202–254–3207.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

The rules that eventually will be promulgated for the 1983–84 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended.

Proposed 1983–84 Migratory Game Bird Hunting Regulations (preliminary).

The following general frameworks and guidelines for hunting certain waterfowl, sandhill cranes, mourning doves, white-winged doves, Zenaida doves, scaly-naped pigeons, band-tailed pigeons, gallinules, rails, coots, common snipe, and woodcock are proposed during the 1983–84 season. Changes or possible changes, when noted, are in comparison to 1982–83 final frameworks or regulations, and reflect the Service's position at this time. As noted earlier, public responses, additional data and information, and other considerations may lead to changes in the frameworks being proposed at this time. In this respect, date changes of one to two days, because of the 1983–84 calendars causing dates to fall on different days of the week, are regarded as "no change." All mentioned dates are inclusive. The Service also wishes to alert the public to various recommendations it has received since the 1982–83 regulations were finalized, and prior to the initiation of this year's regulatory cycle. These and the Service's responses or comments follow the frameworks being proposed.

Stabilized Regulations for Duck Hunting. During the 1980–81 hunting season, the Service implemented a program of stabilized regulations (numbers of hunting days and limits) for ducks in the United States. On July 1, 1980, the Service advised in the **Federal Register** (at 45 FR 44546) that it planned to take this action in connection with an evaluation program to be conducted in cooperation with the Canadian Wildlife Service. A stabilized regulations program was initiated in Canada in the 1979–80 hunting season. The study was described at that time, and is repeated for informational purposes as follows:

At the Public Hearing held on August 2, 1979, to review the proposed waterfowl and other late hunting season regulations, the Canadian Wildlife Service announced its intention to initiate a new waterfowl management program that had been developed cooperatively with the Provinces of Alberta, Manitoba, and Saskatchewan. A major element of this program is the stabilization of waterfowl hunting regulations for five years. The Service, in responding to

the Canadian statement, noted that annual changes in hunting regulations constitute a source of difficulty in understanding the population dynamics of waterfowl, particularly the relationship between regulations and harvest rates. It also noted the advantages of the two nations jointly implementing a study of stabilized regulations.

Duck bag limits and season lengths have not been markedly altered among years in the United States for some time. The objectives of this approach have been to hold hunting opportunity reasonably constant, but within a range that would not result in an overharvest of any population, and to provide an opportunity to define more precisely the relationships between regulations and harvest.

During the past few months, the Service has been discussing a cooperative study with Canadian Wildlife Service aimed at investigating more thoroughly the impact of environmental variables on waterfowl populations. To this end, the Service proposes to initiate a program in which hunting regulations during the next five years in each of the Flyways would be maintained at the same general levels as during the 1979–80 hunting season. The focus of the program would be primarily on ducks, and on seasons and bag limits. Consideration will be given to special situations regarding particular species or other aspects of the regulations. An environmental assessment is in preparation in which the proposed program will be examined in more detail, and criteria to be used in guiding it will be defined. The assessment will be made available for public review as soon as possible. The Service proposes to conduct the program in cooperation with the State wildlife agencies and the Canadian Wildlife Service. The program will provide a unique opportunity to study the impact of hunting on North American waterfowl, and to initiate or redirect studies relating to other aspects of waterfowl populations dynamics.

The assessment noted above was subsequently issued, and copies are available from the Office of Migratory Bird Management. The hunting regulations for the 1980–81 season incorporated the concept of regulations stability and represent the first year of a five-year study. The Service proposes to continue with the program of stabilized regulatins during the 1983–84 hunting season, the fourth year of study.

The Service proposes to amend 50 CFR Part 20 as follows:

1. *Shooting hours.* (No change.) Basic shooting hours beginning one-half hour before sunrise and ending at sunset are proposed with the option that more restrictive shooting hours within this framework may be selected by the States or may be established for special seasons.

2. *Framework dates for ducks and geese in the continental United States.* (Possible change.) The Service proposes that these framework are to be generally the same as during the 1982–83 season. From October 1, 1983, to January 20, 1984, for the Atlantic Flyway; from October 1, 1983, to January 20, 1984, for the Mississippi Flyway; and from October 1, 1983, through January 22, 1984, for the Central and Pacific Flyways, with the following exceptions:

(a) Sea ducks: in designated sea duck hunting areas in the Atlantic Flyway—September 15, 1983, through January 20, 1984.

(b) September teal season: September 1 through September 30, 1983, in specified areas.

(c) Special scaup season: October 1, 1983, through January 31, 1984, in specified areas.

(d) Experimental duck seasons: In Florida, Kentucky, and Tennessee, 5-consecutive-day duck seasons may be selected in September.

(e) Snow (including blue) and white-fronted geese: In Louisiana, between October 1, 1983, and February 14, 1984, in zones established for duck hunting seasons.

(f) Snow geese: In the Atlantic Flyway, October 1, 1983, through January 31, 1984. In New Mexico, October 1, 1983, through February 12, 1984.

(g) Canada geese: In New York, Rhode Island, Connecticut, New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and a designated area in southwestern Pennsylvania, the Canada goose season framework extends to January 31, 1984.

(h) Pacific Flyway brant: October 22, 1983, through February 19, 1984.

(i) Alaska waterfowl: September 1, 1983, through January 26, 1984.

In 1982, the Service received several recommendations for changes in the waterfowl hunting season frameworks. The Service believes that before any changes are made, results from the Iowa and Mississippi studies should be available for consideration. The Iowa study, initiated in 1979, involved an any-duck species season of 7 days in late September. The experimental season was offered in lieu of the September teal season and the number of hunting days selected in September were deducted from the number allotted to the regular duck season. The Mississippi experiment, also begun in 1979, involved a framework extension to January 31 with no additional hunting days. Information from these earlier and later experimental seasons should provide useful insight into the effect of framework extensions on hunter participation and duck harvest. It is expected that final reports of the Iowa and Mississippi studies will be available for consideration during the current regulations development cycle. Consequently, the Service presently defers recommendations on duck season framework for these two States as well as for other proposed duck season framework changes pending receipt of final reports of these studies.

Kansas informed the Service of its plans to develop a proposal for extending the season framework for snow geese to February 15 for undesignated counties in the northeastern part of the State. The late season is being proposed as a means of alleviating crop depredation complaints.

Response. The Service defers consideration of the request pending receipt of a detailed proposal and justification, Council recommendations and consultations with Canada.

3. *Black ducks.* The Service has stated on several occasions that a decline in the number of black ducks has occurred over the past 30 years (see **Federal Register**, September 17, 1982, 47 FR 41253). The precise cause or causes of this decline are not clear. Observations and investigations in both Canada and the United States in recent years indicate that a combination of factors may be involved. These factors include deterioration and loss of black duck habitat, competition and hybridization with mallard populations that have expanded into the range of the black duck, and possible overharvest of segments of the black duck population, particularly immature black ducks originating from certain portions of the breeding range. The Service announced on September 17, 1982 (47 FR 41254) that a program to further restrict harvest of black ducks would be initiated in 1983, and that the program would be developed in cooperation with State, Provincial, and Federal wildlife agencies in both Canada and the United States.

On January 18–19, 1983, black duck population status and harvest in eastern Canada was discussed at a technical meeting attended by representatives of the Canadian Wildlife Service and the Provinces of eastern Canada. Representatives from the Service and the Atlantic and Mississippi Flyway Councils were invited and participated in these discussions.

A similar technical meeting of representatives from States in the Atlantic Flyway was held by the Atlantic Flyway Council in Albany, New York, on January 25–26, 1983. Representatives from the Fish and Wildlife Service, the Canadian Wildlife Service, and the Mississippi Flyway Council were invited and participated in these discussions. Strategies for achieving a 25-percent reduction in

black duck harvest in the Atlantic Flyway were reviewed at this meeting.

On Febuary 8–9, 1983, representatives of the Canadian Wildlife Service and the U.S. Fish and Wildlife Service met to review the results of the above meetings and to further coordinate activities relating to management of black ducks in the United States and Canada. The status of black duck populations and possible causes of the decline in black duck numbers were discussed in detail at this meeting.

Results of the above meetings and discussions can be summarized as follows:

A. States of the Atlantic Flyway, where black ducks are harvested at levels higher than 5,000 per year, are developing proposals for regulations changes that will reduce black duck harvest by 25 percent or more in 1983. These proposals will use one or more of the following methods to acheive a reduced harvest:

1. Reduce the daily bag limit for black ducks.

2. Adjust duck hunting season dates to avoid periods when black ducks are most vulnerable to shooting.

3. Reduce the number of hunting days in which black ducks can be taken.

4. Redirect hunting pressure to other duck species or other game species.

B. Regulatory strategies which will reduce the harvest of black ducks in the Mississippi Flyway are being examined by the States of that Flyway. A schedule for implementation has not yet been developed.

C. Discussions with the Canadian Wildlife Service indicated that proposals are being considered for additional restrictions on black duck harvest in portions of Canada in 1984. This is the earliest date possible for regulations changes in Canada due to recently implemented laws regarding public consultation prior to changes.

D. Hunter education programs will be initiated in 1983. These programs will emphasize the downward trend in black duck numbers, the purpose of harvest restrictions, and will encourage hunters to improve their ability to identify black ducks in the field. A meeting on this subject was held by the Service on February 14, 1983, and was attended by public information specialists from six States. Additional meetings of this type will be held in March 1983.

E. Proposals for regulatory changes that will reduce black duck harvest will be reviewed at Flyway Council meetings on March 19 and 20, 1983, with the aim of forwarding recommedations to the Service. After considering these recommendations, the Service will develop more specific proposals for black duck harvest restrictions in 1983 for publication in the **Federal Register** in a suplemental proposal rulemaking in early May.

F. The Service will prepare an Environmental Assessment of these proposed regulations changes. A draft of the assessment will be made available for public review and comment.

4. *Wood ducks* . (No change.) In 1977 regulations for this species were changed to permit southeastern States the option of an early October hunting season during which no special bag and possession limits applied under conventional regulations; under point system regulations, the species was placed in the mid-point category. The criteria for such seasons were described in the **Federal Register** dated May 25, 1977 (42 FR 26669), and are summarized and updated for informational purposes:

The southeastern United States is defined as Virginia, Kentucky, Tennessee, Arkansas, and Louisiana and all States east thereof in the Atlantic and Mississippi Flyways. The Service proposes to again consider regulations aimed at additional wood duck harvest in the southeastern States only within the following guidelines:

(a) In 1983 States in the southeastern United States may split their regular duck hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15.

(b) During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway in 1983 shall apply to wood ducks, and under the point system, the point value for wood ducks shall be reduced from the high to the mid-point category. For other species of ducks daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations.

(c) In addition, the extra teal option available to States in the Atlantic and Mississippi Flyways that select conventional regulations and do not have a September teal season may be applied during the period.

(d) This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

(e) This special provision for wood ducks shall be regarded as experimental, and subject to annual and final evaluations by participating States of population, harvest, banding, and other available information.

(f) The experiment shall be conducted for a specified time period to be agreed upon between the Service and parteicipating States.

The Service to retain this option for the 1983 season.

5. *Sea ducks* . (No change.) A maximum open season of 107 days for taking scoter, eider, and oldsquaw ducks is proposed during the period between September 15, 1983, and January 20, 1984, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hamshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia. Such areas shall be described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Any State desiring its sea duck season to open in September must make its selection no later than July 29, 1983. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

6. *September teal season* . (No change.) An open season on all species of teal may be selected by Alabama, Arkansas, Colorado (Central Flyway portion), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico (Central Flyway portion), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 29, 1983.

7. *Extra teal option.* (No change.)

(a) States in the Atlantic (except Florida), Mississippi (except Kentucky

and Tennessee), and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag of 2 and possession limit of 4 blue-winged teal for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

8. *Experimental September Duck Seasons. Tennessee, Kentucky, and Florida September Duck Seasons:* Experimental 5-consecutive-day duck seasons may be selected in September by Tennessee, Kentucky, and Florida subject to the following conditions:

1. In Kentucky and Tennessee the seasons will be in lieu of September teal seasons;

2. In all States, the daily bag limit will be 4 ducks, no more than 1 of which may be of a species other than teal or wood duck, and the possession limit will be double the daily bag limit;

3. The experimental season will be for 3 years to facilitate evaluation; and

4. Additional information to be gathered by the States to evaluate the experiment will include hunter and harvest surveys, banding, and population surveys.

Iowa: Earlier, the Service indicated that it defers a recommendation about continuation of a September duck season in Iowa, pending receipt and evaluation of a final report of the experimental season.

9. *Special scaup season.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must occur between October 1, 1983, and January 31, 1984.

2. The season must occur outside the open season for any other ducks except sea ducks.

3. The season is limited to areas mutually agreed upon between the State and the Service prior to September 2, 1983, and

4. These areas must be described and delineated in State hunting regulations.

5. In lieu of a special scaup-only season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to special scaup seasons elsewhere.

10. *Extra scaup option.* (No change.) As an alternative to a special scaup-only season, States in the Atlantic, Mississippi, and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed for special scaup seasons. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

11. *Mergansers.* (No charge.) States in the Atlantic and Mississippi Flyways may select separate bag limits for mergansers in addition to the regular duck bag limits during the regular duck season. The bag limit is 5 daily and 10 in possession. Elsewhere, mergansers are included within the regular daily bag and possession limits for ducks. The restriction on hooded mergansers of 1 daily and 2 in possession is continued in the Atlantic, Mississippi, and Central Flyways.

12. *Canvasback and redhead ducks.* (Possible change.) Last year, the Atlantic, Mississippi, and Central Flyway Councils asked the Service to consider opening areas that are presently closed to the taking of canvasbacks. In addition, the Atlantic Flyway Council requested that designated areas of the flyway be opened to an experimental 6-day season during which 3 male canvasbacks could be taken daily.

In the **Federal Register** dated August 20, 1982, the Service responded to these recommendations by the following statement:

> The Service views these proposals as a further indication of the need for a comprehensive review and update of current management strategies and objectives for this species which have been in place since 1976. The Service proposes to undertake such a review and develop recommendations for consideration for the 1983–84 hunting season. The review will include an evaluation of management measures discussed in an environmental assessment titled *Proposed Hunting Regulations on Canvasbacks and Redhead Ducks* (April 1976), including area closures and the criteria for defining and selecting them, and consideration of alternative management strategies including those proposed by the various Flyway Councils mentioned above. This review is judged to be a necessary preliminary to further consideration of changes in canvasback hunting regulations. Accordingly, the Service proposes to defer consideration of such changes pending completion of the review.

Subsequently, North Dakota, South Dakota, and Wisconsin reiterated their previous requests that all or certain area closed to canvasback taking be abolished.

Response. The Service has underway a study of canvasback management needs and strategies. It anticipates that an environmental assessment addressing these concerns and identifying a proposed action will be available this spring. Also, additional harvest information from the 1982–83 season, and 1983 breeding population survey data will become available in early July. Consequently, the Service will defer consideration of specific changes in the hunting frameworks for the canvasback pending completion of the assessment and receipt of 1983 survey data. No changes are proposed at this time for redheads.

13. *Zoning.* (Possible change.) States of the Atlantic, Mississippi, and Central Flyways may divide their States into zones for establishing different hunting seasons in accordance with criteria described in the **Federal Register** dated May 25, 1977 (42 FR 26671). The criteria for zoning are as follows:

1. The establishment of any of these zones shall be considered experimental until the effects of the zoning are more clearly defined and understood.

2. The primary purpose of the zoning shall be to provide more equitable distribution of harvest opportunity for hunters throughout a State.

3. Proposed zones and season dates shall not substantially change the pattern of harvest distribution among the States within a flyway.

4. Zoning shall not detrimentally change the harvest distribution pattern among species or populations at either the State or Flyway level.

5. Each zoning proposal shall include a detailed evaluation plan describing how changes in harvest will be measured, and what steps will be taken to compensate for any significant changes that might occur.

6. Each zoning proposal shall include an evaluation of anticipated changes due to zoning. If on the basis of this evaluation the Service and the State agree that no significant increase in harvest is likely, the zoning experiment may be conducted without a reduction in season length for each zone, pending further evaluation. If the evaluation indicates that a significant increase in harvest is likely, an appropriate reduction in season length compared to what would be permitted without zoning shall be made for each zone.

7. Where two or more adjoining States in a flyway may be involved simultaneously in zoning experiments, consideration shall be given to the possibility of consolidating zones.

Memoranda of Agreement have been signed between the Service and each State participating in the experimental zoning.

States in the Atlantic and Central Flyways, in lieu of zoning, may split

their seasons for ducks and geese into two or three segments.

In the Atlantic Flyway, Massachusetts indicated an interest in modifying its past zoning arrangement by creating two inland zones in lieu of the one established previously.

There zoning proposals have been received from Mississippi Flyway States. Arkansas and Wisconsin propose 3-year zoning studies to commence with the 1983–84 hunting season. Missouri reported an interest in altering its boundary between the North and South Zones, and possibly in establishing 3 zones. Texas, in the Central Flyway, advised the Service of its desire to establish an eastern zone for setting duck seasons.

Response. The Service will consider these requests once formal proposals and detailed evaluation plan have been received. The Service does not believe that minor boundary changes in States that have concluded a 3-year zoning study requires another special data collection and analysis effort. However, it believes that major modifications, such as increasing the number of zones, should be subject to a new evaluation.

14. *Goose and brant seasons.* The Canadian Wildlife Service, State conservation agencies, the four waterfowl flyway councils, and others traditionally provide population and harvest information useful in setting annual regulations for geese and brant. The midwinter survey, the past season's waterfowl harvest surveys, and satellite imagery and ground studies of May and June of 1983 will provide additional information. No changes from 1982–83 regulations are proposed at this time, however, the folowing proposed general regulations are subject to revision as additional information becomes available.

Atlantic Flyway. Seasons and bag limits are to be generally the same as last year pending receipt of additional information and recommendations. That is, between October 1, 1983, and January 20, 1984, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New York (including Long Island), Rhode Island, Connecticut, New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length may be 90 days with the closing framework date exended to January 31, 1984. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with a possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut will be 3 and 6, respectively. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season on Canada geese within the October 1, 1983, to January 20, 1984, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season on Canada geese within a December 20, 1983, to January 31, 1984, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. The season is closed on Canada geese in Florida and Georgia. States may, in lieu of zoning, split their goose season into two or three segments.

Between October 1, 1983, and January 31, 1984, States in the Atlantic Flyway may select 90-day seasons on snow geese (including blue geese); the daily bag and possession limits may not exceed 4 and 8 geese, respectively.

Between October 1, 1983, and January 20, 1984, States in the Atlantic Flyway may select 30-day seasons on Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

Environmental assessments made available to the public in 1975 articulate the management rationale being followed for Atlantic brant and greater snow geese. A greater snow goose plan was completed in 1981, and a flyway Canada goose management plan is being developed by the Atlantic Flyway Council.

Mississippi Flyway. Seasons and bag limits for Canada geese to be generally the same as last year, that is, not to exceed 70 days and bag limits not to exceed 2 daily and 4 in possession, pending additional information and recommendations. Seasons and bag limits for specific populations of Canada geese, snow geese (including blue geese), and white-fronted geese are to be determined later when more information is available.

Harvests of the Eastern Prairie and Mississippi Valley Populations of Canada geese in this flyway are controlled by quota allocations. Specific quotas will be established after population management objectives, recent population information, probable production, and expected fall flights have been taken into consideration. It is intended that the entire quota can be safely taken without detriment to the population and that such harvests are justifiable under the appropriate population objectives. Goose seasons in quota areas end when the quota has been achieved and the season terminated by emergency order under provision of section 20.26 of Title 50, or when the permissible number of hunting days has expired. Specific procedural information for any necessary season closures of quota areas will be included in the final regulations.

The Service, in cooperation with the Mississippi Flyway Council and interested States, will undertake an evaluation of the current management plan for Mississippi Valley Population of Canada geese. The review will focus on population size and distribution objectives and harvest quota allocations. Any proposed regulatory changes resulting from the review will be described in a supplemental proposed rulemaking.

Central Flyway. Seasons and bag limits for Canada, white-fronted, Ross', and snow geese (including blue geese) are deferred pending additional information and recommendations. No significant changes from those in effect in 1982–83 are anticipated at this time.

Pacific Flyway. Seasons and bag limits to be generally the same as last year, that is, not to exceed 93 days with overall goose bag limits not to exceed 6 daily and in possession. Specific season frameworks, season lengths, and daily bag limits for geese are deferred pending additional information and recommendations.

15. *Whistling swan.* (No change.) The following frameworks for whistling swans are proposed.

In Utah, Nevada, and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions:

(1) The season must run concurrently with the duck season;

(2) In Utah, no more than 2,500 permits may be issued authorizing each permittee to take 1 whistling swan;

(3) In Nevada, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Churchill County;

(4) In Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in either Teton or Cascade Counties;

(5) States must employ some method to assure that hunters validate their harvest.

In the past, requests for hunting whistling swans of the eastern population have been made to the Service. The Atlantic Flyway Council and several Atlantic Flyway States favor a limited season. Both North Dakota and South Dakota indicated a desire to participate in whistling swan season during the 1983–84 hunting season. In addition, Montana proposed expanding the area where swan hunting has been permitted previously to include all the Central Flyway portion of the State.

Response. Although the Service does not favor a hunting season at this time in the Atlantic Flyway, or an expanded hunting of eastern population swans elsewhere at this time, it will work closely with the affected States in alleviating depreciation problems caused by these birds.

16. *Sandhill cranes.* (Possible change.) Pending evaluation of harvest data from the 1982–83 season, to be available later, seasons for hunting sandhill cranes may be selected within specified areas in Arizona, Colorado, New Mexico, Texas, Oklahoma, North Dakota, South Dakota, Montana, and Wyoming with no substantial change in dates from the 1982–83 seasons and with a daily bag limit of 3 and a possession limit of 6 sandhill cranes, except in Arizona where the limit is 2 cranes per season for 100 permit holders. The provision for the Federal sandhill crane hunting permit is continued in all the above areas except Arizona.

North Dakota recently suggested that sandhill crane hunting be allowed in some additional counties and that the season be lengthened. Details of the proposal and rationale for the changes will be provided later. A detailed proposal by Texas recommended that sandhill crane hunting be provided in a new south zone during the period of January 14 through February 12, 1984.

Response: The Service will give further consideration to the above requests following receipt of a detailed proposal from North Dakota and recommendations from the Central Flyway Council on both proposals. Consideration will be given as to how the requests relate to provisions of the Management Plan for Mid-Continent Sandhill Cranes that was developed cooperatively by the Central Flyway Council and the Service. Details of both proposals will be included in a supplemental proposed rulemaking scheduled for May. The Service notes that the season recommended by Texas would require extending the proposed sandhill crane hunting season framework.

17. *Coot bag limit.* (No change.) Within the regular duck season, States in the Atlantic, Mississippi, and Central Flyways may permit a daily bag limit of 15 and a possession limit of 30 coots, and States in the Pacific Flyway may permit 25 coots daily and in possession, singly or in the aggregate with gallinules.

18. *Gallinules.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1983, and January 20, 1984, of not more than 70 days. Any state may split if gallinule season without penalty. The daily bag and possession limits may not exceed 15 and 30, respectively. States may select gallinule seasons, at the time they select their waterfowl seasons. In this case, daily bag and possession limits will remain the same and the season length may not exceed that for waterfowl, or 70 days, whichever is the shorter period.

States in the Pacific Flyway must select their gallinule hunting seasons within the waterfowl seasons. A gallinule season selected by any State or portion thereof in the Pacific Flyway may be the same as but not exceed its waterfowl seasons, and the daily bag possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

19. *Rails.* (No change.) The States included herein may select seasons between September 1, 1983, and January 20, 1984, on clapper, king, sora, and Virginia rails as follows:

The season lengths for all species of rails may not exceed 70 days, and any State may split its rail season into two segments without penalty.

Clapper and king rails. 1. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia rails. In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, may be selected in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway. No hunting season is proposed for rails in the remainder of the Pacific Flyway.

20. *Common snipe.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1983, and February 28, 1984, not to exceed 107 days, except that in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons between September 1, 1983, and February 28, 1984, not exceeding 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado, and New Mexico.

All States in the Pacific Flyway except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments.

States or portions thereof in the three easterly Flyways may defer selections of snipe seasons at the time they choose their waterfowl seasons in August. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

21. *Woodcock.* (Possible change.) Last year the service delayed the woodcock hunting season framework opening date in the Eastern Region from September 1 to October 5. This was done to assist the recovery of breeding woodcock by reducing the hunting pressure in important northern breeding ground areas where the population had declined significantly. In early April of 1982 a severe blizzard followed by low temperatures evidently killed many breeding woodcock in New England. The 1982 singing-ground survey indicated a 20.3 percent decline from 1981 in displaying males in the Eastern Region, with the reduction being most pronounced in northern States. The framework opening delay was designed to reduce hunting pressure on northern woodcock prior to their southward migration. The 1982 situation was described in more detail in the Federal Register dated August 9, 1982 (at 47 FR 34499).

Preliminary information suggests that the reduced status of breeding

woodcock in the northern part of the Eastern Region last year was correctly assessed and that the delayed opening reduced hunting pressure and harvest of local birds. The magnitude of the harvest reduction will not be known until the results of the woodcock wing collection survey are available in early June. Most northern States reported that fewer woodcock were available last year to hunters. Results of the woodcock singing-ground survey, which provides an index to current breeding population levels, will not be known until early June.

In addition to the New England decline caused by the 1982 blizzard, results of recent year singing-ground surveys indicate that the Eastern Region's breeding population has been gradually declining in recent years. Specific causes of the decline have not yet been identified.

In view of the above circumstances, the Service believes that a delayed season framework opening will again be appropriate in 1983; however, the extent of delay has not been determined. It seems unlikely that New England woodcook will recover their former population status in one year. Findings from both the singing-ground and harvest surveys, plus other information, will be considered before a specific framework opening date is proposed. Furthermore, the Service wishes to review management strategies for the eastern population of woodcock with authorities in the Eastern Region, and with Canada, which supplies many woodcock to Eastern Region hunters. Details of the proposed framework rstriction will appear in the supplemental proposed rulemaking scheduled for **Federal Register** publication in late June, 1983.

No changes are proposed at this time for the Central Region woodcock hunting regulations.

For informational purposes, the general woodcock frameworks are summarized as follows:

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1983 (a date yet to be determined for the Eastern Region) and February 28, 1984, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively. In Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Any State may split its woodcock season without penalty. New Jersey may select woodcock hunting seasons by north and south zones divided by State Highway 70. Seasons in each zone may not exceed 55 days.

22. *Band-tailed pigeons.* (No change.)

West Coast States (California, Oregon, and Washington). These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1983, and January 15, 1984. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

Nevada may select for the counties of Carson City, Douglas, and Lyon an experimental season and limits the same as those selected by California for Alpine County. Each hunter must have in possession a valid band-tailed pigeon hunting permit.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1983. The daily bag and possession limits may not exceed 5 and 10, respectively. Each hunter must have been issued and carry while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State wildlife agency, and such permit will be valid in that State only. The season shall be open only in the areas delineated by the respective States in their hunting regulations. New Mexico may divide its State into a North and a South Zone along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1983, and November 30, 1983, in the North Zone, and October 1, 1983, and November 30, 1983, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected.

23. *Mourning doves.* (No change.) Concern has been expressed by some organizations and individuals about the hunting of mourning doves in September. Accordingly, the Service reviewed and analyzed available information and data on the subject and issued an environmental assessment in July 1977. It was concluded that hunting in September was not detrimental to overall mourning dove populations and that by not permitting September hunting, the opportunities for dove hunting would be curtailed in many areas. Field work in a cooperative Federal-State research program to obtain further information on this matter was completed in 1980 and the final report was issued in 1982. The results of this investigation will be used in future evaluations of September hunting of mourning doves.

In 1982–83 a program of generally uniform frameworks was implemented for all 3 mourning dove management units (47 FR 50162). The Service proposes to offer the same options pending receipt of additional information and recommendations. These are as follows:

Unless otherwise noted, the shooting hours are one-half hour before sunrise to sunset.

Between September 1, 1983, and January 15, 1984, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit: All States east of the Mississippi River and Louisiana.

1. Shooting hours between 12 o'clock noon and sunset daily, or as an option, between one-half hour before sunrise to sunset daily.

2. Hunting seasons of not more than 70 full or half days with daily bag and possession limits not to exceed 12 and 24 doves, respectively. As an alternative, seasons not exceeding 45 full or half days, and limits of 15 an 30 doves, respectively, may be selected. In either, the season may run consecutively or be split into not more than three time periods.

3. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—The South Zone is defined as that area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia—U.S. Highway 280 from Columbus to the Ocmulgee River, along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east along the southern border of Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, west to the western border of Tattnall County, north along the western boundary of Tattnall and Emanuel Counties, east along the northern boundary of Jenkins County, south along the western border and east along the southern border of Screven County to the South Carolina line.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1983.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

1. Hunting seasons of not more than 70 days with daily bag and possession limits not to exceed 12 and 24 doves, respectively. As an alternative, seasons not exceeding 45 days, and limits of 15 and 30 doves, respectively, may be selected. In either, the season may run consecutively or be split into not more than three periods.

2. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 under the alternative), singly or in the aggregate of the two species.

3. In addition to the basic framework and the alternative, Texas may select as Option 1 hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 70 (or 45 under the alternative) days between September 1, 1983, and January 22, 1984.

C. The South Zone may have a season of not more than 70 (or 45 under the alternative) days between September 20, 1983, and January 22, 1984. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1983-January 22, 1984, period.

As Option 2, Texas may select hunting seasons for each of three zones (to be designated), subject to the following conditions:

A. The hunting season may be split into not more than two periods, except that, in that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves.

B. Each zone may have a season of not more than 70 (or 45 under the alternative) days between September 1, 1983, and January 25, 1984.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

1. Daily bag and possession limits not to exceed 12 and 24, respectively.

2. Hunting seasons of not more than 70 full days with daily bag limits not to exceed 12 and 24 doves respectively, which may run consecutively or be split into not more than three periods (except in the Arizona option and portions of California and Nevada described below). As an alternative, seasons not exceeding 45 days and limits of 15 to 30 doves respectively, may run consecutively or be split into not more than 3 periods. In the Nevada counties of Clark and Nye, and in the California counties of Imperial, Riverside, and San Bernardino, daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively, with a 70-day season, or 15 and 30 with a 45 day season, singly or in the aggregate of the two species.

Arizona may select for designated white-winged dove management units seasons of 70 full days with a daily bag limit of 12 doves in the aggregate of which no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day. The aggregate limits apply only during the white-winged dove season.

24. *White-winged doves.* (No change). Arizona, California, Nevada, New Mexico, and Texas may select hunting seasons between September 1 and December 31, 1983, and daily bag limits as stipulated below.

Arizona may select a hunting season of not more than 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the Nevada counties of Clark and Nye, and in the California counties of Imperial, Riverside, and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively with a 70-day bag season, or 15 and 30 with a 45-day season; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 45-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 4 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

In addition, Texas may also select a white-winged dove season of not more than 70 (or 45 under the alternative) days to be held between September 1, 1983, and January 25, 1984, and coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 12 (or 15 under the alternative), of which not more than 2 may be whitewings. The possession limit of both species in the aggregate may not exceed 24 (or 30 under the alternative), of which not more than 4 may be whitewings.

Florida may select a white-winged dove season of not more than 70 (or 45 under the alternative) days to be held between September 1, 1983, and January 15, 1984, and coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 12 (or 15 under the alternative), of which not more than 4 may be whitewings. The possession limit of both species in the aggregate may not exceed 24 (or 30 under the alternative) of which not more than 8 may be whitewings.

25. *Migratory bird hunting seasons in Alaska.* (No change.) In 1977, by mutual agreement, the Service and the Alaska Department of Fish and Game initiated a study of stabilized hunting regulations for the 5-year period, 1977 through 1981. Background information on this experiment was given in the **Federal Register** dated March 10, 1977 (42 FR 13317). Alaska submitted its final report of the study on December 31, 1981, and requested that it be permitted to continue setting stabilized regulations in conjunction with the stabilized duck hunting experiment underway in the remainder of the Pacific Flyway. The 1982-83 Alaska frameworks contained the stabilization feature. The Service proposes to allow Alaska to maintain stabilized duck hunting frameworks during the 1983–84 season.

Proposed Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1983–84

Outside Dates: Between September 1, 1983, and January 26, 1984, Alaska may select seasons on waterfowl, snipe, and sandhill cranes, subject to the following limitations:

Shooting Hours: One-half hour before sunrise to sunset daily.

Hunting Seasons:

Ducks, geese, and brant—107 consecutive days in the Pribilof and Aleutian Islands, except Unimak Island; 107 days in the Kodiak (State game management unit 8) area and the season may be split without penalty; 107 consecutive days in the remainder of Alaska, including Unimak Island. Exception: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily limit of 6 and a possession limit of 12 Emperor geese.

Brant—A daily bag limit of 4 and a possession limit of 8.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 2 and a possession limit of 4.

26. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.* (No change.)

Proposed Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1983–84

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1983, and January 15, 1984, as follows.

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas:

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is known to be present in the above locale in small numbers and which is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Gallinules, and Snipe

Outside Dates: Between December 1, 1983, and January 31, 1984, Puerto Rico may select hunting seasons as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks, coots, common gallinules, and common snipe.

Daily Bag and Possession Limits:

Ducks—Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Coots—Not to exceed 6 daily and 12 in possession.

Common gallinules—Not to exceed 6 daily and 12 in possession, except that the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Closed Areas: No open season for ducks, coots, gallinules, and snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Proposed Framework for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1983–84

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1983, and January 15, 1984, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds:

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1983, and January 31, 1984, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck *(Oxyura jamaicensis);* the Bahama pintail *(Anas bahamensis);* West Indian whistling (tree) duck *(Dendrocygna arborea);* fulvous whistling (tree) duck *(Dendrocygna bicolor),* and the masked duck *(Oxyura dominica).*

27. *Migratory game bird seasons for falconers.* (No change.)

Proposed Special Falconry Frameworks

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in one geographical area.

28. *Hawaii mourning doves.* (No change.) The mourning dove is the only migratory game bird occurring in Hawaii in numbers to permit hunting. It is proposed that mourning doves may be taken in Hawaii in accordance with regulations set by the State of Hawaii as has been done in the past and subject to the applicable provisions of part 20 of Title 50 CFR. Such a season must be within the constraints of applicable migratory bird treaties and annual regulatory frameworks. These constraints provide that the season must be within the period of September 1, 1983, and January 15, 1984, the length may not exceed 60 full days; the daily bag and possession limits may not exceed 10 and 20 doves, respectively. Other applicable Federal regulations relating to migratory game birds shall also apply.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Imports, Exports, Transportation, Lead poisoning.

Dated: March 11, 1983.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-8780 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 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

Agricultural Stabilization and Conservation Service
Agricultural Marketing Service

Wool and Mohair Advertising and Promotion

Results of Referendum

AGENCIES: Agricultural Stabilization and Conservation Service, (ASCS) and Agricultural Marketing Service, (AMS) USDA.

ACTION: Notice of results of referendum.

SUMMARY: The purpose of this notice is to announce that the requisite number of goat and mohair producers voting in a referendum have approved an agreement between the U.S. Department of Agriculture (USDA) and the Mohair Council of America (MCA). The referendum was conducted by the Secretary of Agriculture in accordance with provisions of Section 708 of the National Wool Act of 1954, as amended "Wool Act" (7 U.S.C. 1787). The agreement authorizes USDA to make deductions from the incentive payments made to producers under the Act with respect to mohair which is marketed during the years 1982 through 1985. Amounts so deducted are to be used by MCA for both domestic and foreign advertising and sales promotion programs and programs for the dissemination of information on product quality, production management, and marketing improvement for mohair, goats, or the products thereof.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Livestock, Meat, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447-2650.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "nonmajor." It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since ASCS and AMS are not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The title and number of the Federal assistance program to which this notice applies are: Title—National Wool Act Payments and NUMBER—10.059 as found in the Catalog of Federal Domestic Assistance.

Section 708 of the Wool Act authorizes the Secretary of Agriculture to enter into agreements with or to approve marketing agreements entered into between marketing cooperatives, trade associations, or other organizations for the purpose of developing advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for wool, mohair, sheep, or goats or their products.

In accordance with Section 708, the Secretary has entered into such an agreement with the MCA for the 1982 through 1985 marketing years. The agreement becomes effective following approval by the goat and mohair producers in a referendum and upon signing by the appropriate officials of MCA and USDA. A referendum was held during the period of December 6 through December 17, 1982. Section 708 provides that approval of the agreement by a minimum of two-thirds of the voting producers or by producers who have produced two-thirds of the volume of mohair represented in the referendum is required for approval. In the referendum, 1,279 producers or 78.4 percent of the voting producers voted to approve of the agreement. Also, 356 producers or 21.6 percent voted against approval of the agreement. The producers voting to approve the agreement owned 585,083 goats or 84.8 percent of the goats owned by all the voting producers. Producers owning 105,786 goats or 15.2 percent opposed the agreement. Anyone who owned goats 6 months of age or older in the United States, continuously, for a period of at least 30 days during the calendar year 1981 was eligible to vote.

The new agreement provides that funds would be made available to the MCA through pro rata deductions from any price-support payments made to producers for the 1982 through the 1985 marketing years. The agreement authorizes the use of funds to pay expenses for the conduct of both domestic and foreign advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for mohair, goats or the products thereof.

Under the new agreement, deductions will be made from price-support payments on 1982 through 1985 marketings at a rate not to exceed 4½ cents per pound of mohair marketed. Deductions of 4½ cents per pound will be made from payments on 1982 marketings of mohair.

Notice

In accordance with delegations of authority by the Secretary of Agriculture (38 FR 22955, August 28, 1973, 39 FR 23076, June 26, 1974), it has been determined that the agreement providing for pro rata deductions to be made from price-support payments which are made to producers of mohair for the 1982 through 1985 marketing years has the approval of the number of producers required by Section 708 of the National Wool Act of 1954, as amended. More than two-thirds of the total number of producers voting and producers of more than two-thirds of the total volume of production represented in the referendum indicated their approval of such agreement.

The agreement was signed and became effective on March 30, 1983.

Done at Washington, D.C. March 30, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 83-8997 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 82-355]

Fumigation of Imported Cut Chrysanthemums; Colombia, South America: Finding of no Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service has prepared an environmental assessment for fumigations of imported cut *Chrysanthemums* spp. from Colombia, South America. On the basis of the assessment, the Animal and Plant Health Inspection Service has determined that no significant adverse impact on the environment will result from the implementation of the selected alternative. Therefore, an environmental impact statement (EIS) on this program will not be prepared.

FOR FURTHER INFORMATION CONTACT: F. E. Cooper, Staff Officer, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8248.

SUPPLEMENTARY INFORMATION: Agromyzids (insects of the family Agromyzidae) present a significant threat of damage to agricultural products grown in the United States. Agromyzids are leaf eating insects, burrowing tunnels between the outer layers of the leaves. Left unchecked, they will produce significant damage to the agricultural product. To prevent the movement into the United States of these injurious insects, the Animal and Plant Health Inspection Service (APHIS), requires most imported cut flowers found infested with agromyzids to be fumigated at the time of importation with methyl bromide in accordance with specified procedures. However, fumigation is not currently required for any cut flowers from Canada or Mexico or for infested cut *Chrysanthemum* spp. from Colombia unless infested with agromyzids other than *Liriomyza trifolii* (Burgess). These exceptions were based on the determination that the agromyzids occurring in Canada or Mexico and agromyzids of the species *Liriomyza trifoliii* (Burgess) attacking *Chrysanthemums* spp. in Colombia did not present a significant risk of damage to cut flowers or other agricultural crops grown in the United States. There are more than 1,800 species of agromyzids throughout the world that have been identified and, until recently it has not been feasible to differentiate species of agromyzids at the time of importation.

Based on pest interception records and a recent survey in Colombia, APHIS has determined that only two species of agromyzids infest cut flowers of *Chrysanthemum* spp. in Colombia. Inspectors at ports of entry are now able to differentiate between *L. huidobrensis* and *L. trifolii* infesting cut flowers of *Chrysanthemum* spp. from Colombia based on taxonomic characteristics and based on the finding that only these two species of agromyzids are known to infest cut flowers of *Chrysanthemum* spp. in Colombia. *Liriomyza trifolii* is widespread within the United States, and it is not necessary to take action against *L. trifolii* since its movement into the United States would not cause significant additional damage to cut flowers or other agricultural products grown in the United States. Therefore, it is necessary to require fumigation for those cut flowers of *Chrysanthemum* spp. from Colombia found to be infested with agromyzids unless they are infested only with *L. trifolii*.

A series of alternatives concerning fumigations for this purpose were considered. These alternatives were:

(1) To allow the importation without fumigation of any cut flowers of *Chrysanthemum* spp. from Colombia found to be infested with any agromyzids.

(2) To require fumigation for any cut flowers of *Chrysanthemum* spp. imported from Colombia found to be infested with any agromyzids.

(3) To require fumigation for any cut flowers of *Chrysanthemum* spp. imported from Colombia because of a finding of agromyzids unless the agromyzids are determined to be *L. trifolii*.

APHIS has selected alternative (3) because cut flowers of *Chrysanthemum* spp. from Colombia can be imported without a significant risk of spreading injurious agromyzids into noninfested areas of the United States. The fumigation is the only known feasible method of destroying agromyzids in cut flowers. Alternative (1) is not feasible because there would be a substantial risk of spread of *L. huidobrensis* within the United States. Alternative (2) is not desirable because it would cause unnecessary fumigations. The fumigation sites will be APHIS approved commercial or government fumigation chambers or other locations where fumigations are conducted by certified pesticide applicators.

APHIS, after considering the cumulative adverse effects of the implementation of the selected alternative, has concluded that there will be no primary, secondary, or cumulative adverse effects on the quality of the human environment based on the specifications for fumigations that are used for these treatments. No chain reactions or secondary adverse effects of interrelated activities are expected from any of the alternatives. The environmental assessment evaluated the uniqueness or rareness of resources being affected and concluded that the selected alternative will not have an effect on the continued existence of any endangered or threatened species or result in the destruction or adverse modification of the habitats of such species. The assessment indicates that the fumigations will have no appreciable impact on air and water quality. Soil in the fumigation area will not be affected. APHIS possesses the expertise to conduct the selected alternative safely and efficiently.

This action has been reviewed under the requirements of the National Environmenal Policy Act, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR Parts 1500-1508), and the APHIS Guidelines concerning Implementation of NEPA Procedures.

Done at Washington, D.C., this 31st day of March 1983.

Harvey L. Ford,

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

[FR Doc. 83-8904 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-34-M

Office of the Secretary

National Advisory Council on Rural Development; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-163), notice is hereby given of a meeting of the National Advisory Council on Rural Development. The meeting will be held on April 19 and April 20, 1983, at the Department of Agriculture, 12th and

Independence, SW., Room 104A, Washington, D.C. 20250. The meetings will begin at 9:30 a.m. each day.

The purpose of the meeting will be to discuss implementation of the national rural development strategy which was recently submitted to the Congress, to plan the Council's role in preparing the annual strategy update, and to discuss specific assignments for the remainder of fiscal year 1983.

The meeting will be open to the public as space permits. In order to provide opportunity for the public to comment on the work of the Council, written statements will be received two weeks prior to and two weeks following the meeting. Due to the press of business, however, public participation will be limited to written statements. Views and comments will be addressed in writing, and, when deemed appropriate by the Co-Chair, may be addressed orally at the next meeting of the Council.

Written comments, both prior to and following the meeting, should be addressed to: Mr. Willard (Bill) Phillips, Jr., Director, Office of Rural Development Policy, Room 4128–S, United States Department of Agriculture, 12th and Independence, S.W., Washington, D.C. 20250, (202) 382–0044.

Dated: March 22, 1983.

Willard (Bill) Phillips, Jr.,

Director, Office of Rural Development Policy.

[FR Doc. 83-0690 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-07-M

Soil Conservation Service

Ross County Restoration Unit No. 1 RC&D Measure, Ohio; Finding of no Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ross County Restoration Unit #1, RC&D Measure, Ross County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure proposes to stabilize a series of critically eroding areas on state-owned property. The planned works of improvement include the shaping, grading and seeding of approximately three acres of grassed waterways and installing two grade stabilization structures.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Robert R. Shaw,

State Conservationist.

March 24, 1983.

[FR Doc. 83-8737 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-16-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

DATE: April 28–29, 1983.

TIME: 8:30 a.m. to 5:00 p.m.

ROOM: 415.

PROGRAM: This meeting will review applications submitted for Special Projects Program Development, Divison of General Programs, for projects beginning after October 1, 1983.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would consititue a clearly unwarrented invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated, January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-8822 Filed 4-4-83; 8:45 am]

BILLING CODE 7536-01-M

CIVIL AERONAUTICS BOARD

[Docket No. 41390]

California-Toronto/Montreal Service Case; 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 31, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge

[FR Doc. 83-8870 Filed 4-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41244]

First American Bank of Virginia; Enforcement Proceedings; Postponement of 2nd Prehearing Conference

Notice is hereby given that the second prehearing conference in the above-entitled proceeding which has been scheduled to be held on April 22, 1983, is hereby postponed until April 28, 1983, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Ave., N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., March 31, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-8869 Filed 4-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41044]

Frontier Flying Service Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., March 31, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-8871 Filed 4-4-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 17325; Order 83-3-140]

Petition of Southwest Airlines Co.; Order Granting Waiver

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of March, 1983.

In ER-1324 (48 FR 8042, February 25, 1983), the Board adopted rules (14 CFR Part 203) that require all direct U.S. and foreign air carriers to become parties to the Montreal Agreement, thus waiving the low limit of passenger liability and certain carrier defenses under the Warsaw Convention. The Convention, as modified by that Agreement, sets a limit of $75,000 on the liability of the carrier for personal injury or death of passengers in international air transportation. It further requires carriers to include notices as to the liability limit in their conditions of carriage and on or with passenger tickets.

The Board rejected the request of Southwest Airlines that the rule be made inapplicable to U.S. carriers that did not engage in foreign air transportation and did not interline with other airlines. The Board noted that there was an admittedly small risk that the passenger liability limitation of the Warsaw Convention would apply to the traffic carried on such carriers. However, the Board further stated that it was in the public interest to avoid all possibility that the Convention's very low liability limit, absent applicability of the Montreal Agreement, might be made applicable to those passengers because of an unanticipated interpretation of the Convention.

In adopting ER-1324, however, the Board stated:

"A carrier could also consider incorporation in its conditions of carriage of a provision that the carrier does not avail itself of the limits of liability of the Warsaw Convention, and agrees that no limit of liability shall apply, even in the event that the Convention should be applicable. Such a provision would constitute a special contract between the airline and its passengers under Article 22(1) of the Convention, and would avoid the otherwise existing possibility that passengers might unconscionable be limited in their recovery for death or injuries against the airline by reason of the liability limits of the Convention. In such circumstances, the liability limit notice would be superfluous."

By letter dated March 22, 1983, the Southwest Airlines Co. requested a waiver from Part 203 based on its proposal to include in its conditions of carriage an agreement that would waive all limitations of liability under the Warsaw Convention to the extent that the Convention might become applicable to its passengers.[1] Specifically, Southwest proposes, upon grant of its requested waiver, to include the following provision in its conditions of carriage:

"In the event that any Southwest passenger may be determined to be in international transportation under the Warsaw Convention, Southwest waives all limitations of liability contained in that Convention, and agrees not to limit its liability, for death or injury to such passenger."

We will grant Southwest the requested waivers, to be effective only so long as Southwest has and maintains the specified liability waiver in its conditions of carriage. As Southwest points out, the proposed waiver of all passenger liability under the Warsaw Convention would grant its passengers substantially greater protection than its adherence to the Montreal Agreement, as required by Part 203. Under these circumstances the provisions for adherence to the Montreal Agreement and the passenger notice provisions would, as stated in ER-1324, become superfluous.

Accordingly, 1. We grant Southwest Airlines Co. a waiver from the provisions of Part 203 and § 202.12 of the Board's Economic Regulations;

2. The waiver shall be effective only for such periods as Southwest Airlines Co. waives all limitations of liability under the Warsaw Convention for death or injury to passengers, and only so long as Southwest places and maintains thereafter its waiver of such limitations of liability in its conditions of carriage within 30 days from the date of this order;

3. A copy of this order and the letter of March 22, 1983, in which Southwest has agreed to waive such liability limitation shall be placed in Docket 17325, and shall constitute a special contract under Article 22(1) of the Warsaw Convention between Southwest Airlines Co. and its passengers, waiving all passenger liability limitation under that Convention for death or injury to such passengers; and

4. This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-8872 Filed 4-4-83; 8:45 am]

BILLING CODE 6320-01-M

[1] In addition, Southwest requested relief from § 202.12 which implements Part 203 by making adherence to the Agreement a condition on carrier certificates.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-091]

Certain Electric Motors From Japan; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration.

ACTION: Notice of final results of administrative Review of antidumping duty order.

SUMMARY: On June 18, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain electric motors from Japan. The review covered the three know exporters of this merchandise to the United States and generally the period from April 1, 1980 through November 30, 1980.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of the petitioner and one exporter, we held a public hearing on July 23, 1982.

After an analysis of the comments received, the Department has changed the margin for that exporter. The margins in the preliminary results remain unchanged for the other two exporters.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: F. Patrick Pope or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 84994) an antidumping duty order on certain electric motors from Japan. On June 18, 1982, the Department published in the **Federal Register** (47 FR 26421-3) the preliminary results of its administrative review of the order. The Department has now completed that administrative review.

Scope of the Review

The motors covered by the review are AC, polyphase electric motors of not less than 150 HP but not greater than 500 HP, not including submersible well pump motors. The covered motors are currently classifiable under items 682.4545, 682.4600, 682.5020, and 682.5030 of the Tariff Schedules of the United States Annotated.

The Department knows of three Japanese firms engaged in the production and/or exportation of Japanese large electric motors to the United States. The review covers all three and generally the period April 1, 1980 through November 30, 1980.

Analysis of Comments Received

Interested parties were invited to comment on the priliminary results. The petitioner, the National Electrical Manufacturers Association ("NEMA") and one manufacturer, Toshiba Corporation ("Toshiba"), requested a hearing which was held on July 23, 1982. NEMA, Toshiba and Yaskawa Electric Manufacturing Co., Ltd. ("Yaskawa") submitted comments.

(1) *Comment:* As stated in the preliminary results, the Department used five criteria to determine the most similar comparison model for foreign market value. Those criteria were: (1) Type of motor; (2) whether high or low voltage; (3) horsepower rating within plus or minus 10 HP; (4) number of poles; and (5) the Department's 90-45 day contemporaneous sale rule (See "Final Results of Administrative Review of Antidumping Finding" concerning bicycle tires and tubes from Korea, 47 FR 28727-30). Using these five criteria, the Department first looked to the Japanese home market for an appropriate comparison model, then to Canada, and if no comparable sales existed in either of these markets, the Department used constructed value. NEMA objects to the ±10 HP differential and believes it should be broader for both this and future reviews. It argues that motors with different output powers have similar used, similar costs of production, and similar component materials and are, therefore, "similar" merchandise. Moreover, it believes the method for selecting comparable motor models in the fair value investigation is not binding in this review.

Toshiba objects to the wider horsepower rule profferred by the Department in the preliminary results, ±10 percent of the horsepower rating, for subsequent reviews and argues that in this review we should continue to use the narrow version of this criterion. It argues that ±10 HP rule was clearly enunciated in the final fair value determination and that the petitioner has not given any persuasive reasons as to why a broader criterion would be an improvement.

Department's Position: We agree with NEMA that in the future the HP rule should be broader than what was used in the fair value investigation and in this review. While we do not believe that the ±10 HP rule as applied in the fair value investigation and this review is unreasonable or inconsistent with the law, upon a further examination of NEMA standards, we find that motors are not necessarily dissimilar when there is HP differential of more than ±10 HP.

However, we disagree with NEMA's argument that we should abandon the ±10 HP rule for purposes of the current review. This issue is unlike the profit issue (see below), where we recognize that the past practice of calculating profit on the basis of U.S. sales produces unreasonable results. The use of the ±10 HP rule is certainly within the limits of the Department's discretion. Also, although NEMA objected during the review to the ±10 HP rule, it never gave us any technical justifications for an alternate approach. For these reasons we maintain that our use of the ±10 HP rule for this review is justified.

(2) *Comment:* NEMA objects to the 90-45 day contemporaneity rule. It argues that the Department never obtained all of the information necessary to apply this procedure and that the "preconditions" given for application in the Korean tire final results do not exist in this case.

Department's Position: Our adherence to our ordinary 90-45 day contemporaneity rule in this review was not unreasonable, and was certainly within the limits of the Department's discretion. Furthermore, the petitioner did not object to its use until late in the review. As a result, we will use that rule for this review. However, we agree with NEMA that the time period for selecting contemporaneous sales can be expanded in subsequent reviews because the prices of motors do not always fluctuate sufficiently to require a strict adherence to a 90-45 day rule.

With regard to the "preconditions" cited by NEMA, the hearing officer noted on the record (See page 88 of the July 23, 1982 hearing transcript of this case), that NEMA was misapplying the Korean tire case. Specifically, the "preconditions" and the 90-45 day rule are not related.

(3) *Comment:* In the original fair value investigation, the Department used a weighted-average profit on Toshiba's U.S. sales in calculating constructed value. Subsequently, the Department determined that this method of calculation was incorrect (See "Final Determination of Sales at Less Than Fair Value" concerning strontium nitrate from Italy, 46 FR 25496). For the preliminary results, we calculated constructed value using U.S. profit, but we used a weighted-average profit by model rather than an overall weighted-average figure.

Both NEMA and Toshiba believe that both methods are incorrect. NEMA proposes the use of weighted-average home market profit (as in strontium nitrate), while Toshiba proposes that we use a uniform 8 percent profit, based on Toshiba's interpretation of the statute and past administrative practice. At a mimimum, Toshiba wishes us to continue to use the weighted-average U.S. profit by model, computed separately for each quarterly exchange rate period, finding support in § 353.56(a) of the Commerce Regulations. Toshiba further argues that the Department should not average profits on sales to different levels of trade and should not average profits made on standard and modified motors.

Department's Position: We agree with NEMA and Toshiba that both methods, because they are derived from U.S. profits, produce unreasonable results. They inevitably result in dumping margins unless all U.S. sales were made with an identical profit. As required by the statute, we use the statutory minimum profit of 8 percent only when

the profit in the home market on the same general class or kind of merchandise is below 8 percent. Based on the information on hand, since Toshiba's actual profit is above 8 percent, we disagree with using the statutory minimum profit.

Accordingly, for this review we used home market profit, even though the language in the strontium nitrate decision limited use of this method to prospective application. This action is the only correct one. Because we are now using home market profit, we need not concern ourselves with exchange rates.

(4) *Comment:* In order to determine if sufficient home market sales exist in a given period to compare to U.S. sales, we ordinarily look to sales of such or similar merchandise in the home market. In the original fair value investigation and in this review, however, we went one step further and looked to home market sales on a motor rating-by-rating basis. NEMA objects to the rating-by-rating approach because it limits the use of home market sales, while Toshiba maintains that the method is justified because of the complexity of the product and because of the low volume of home market sales of certain models.

Department's Position: For subsequent reviews we will change to the method favored by NEMA because our practice in fair value and this review may have been unduly restrictive and because the two-step test for viability is not the ordinary procedure. However, since the fair value method of determining viability was not unreasonable (as was the profit calculation) and was within the limits of the Department's discretion, for this review, we have stayed with the fair value method.

(5) *Comment:* NEMA objects to the Department's use of the statutory minima of 8 percent and 10 percent for profit and general expenses, respectively, in the constructed value calculations for Yaskawa. It questions whether all appropriate expenses were included in general expenses. NEMA also claims that by using home market profit for Yaskawa, the Department was inconsistent with the method established during the fair value investigation and with the method for Toshiba in this review.

Department's Position: Admittedly, the Department was inconsistent in its preliminary results in using home market profit for Yaskawa and export profit for Toshiba. As indicated in Comment No. 3 above, we have since determined that use of home market profit is the only correct approach. Subsequent to the hearing, Yaskawa presented at the Department's request supporting evidence that its profit and its total general expenses were below the statutory minima. We have examined this information and are satisfied that it is correct.

(6) *Comment:* NEMA contends that the statute requires that constructed value include an amount for general expenses equal to that "usually reflected" in sales of motors of the same general class or kind in the home market of Japan. NEMA also argues that the legal premise of the Department policy paper on general expenses in constructed value is faulty. NEMA believes that the 1979 change to the Tariff Act of 1930 ("the Tariff Act"), which brought constructed value under foreign market value, does not allow for circumstance of sale adjustments to constructed value. Therefore, it disagrees with the Department's method of making adjustments for differences in selling expenses. NEMA further argues that we did not adhere to the procedure set forth in the policy paper when we did not include in constructed value the selling expenses incurred by Toshiba's U.S. subsidiary, Toshiba International Corporation. Finally, NEMA argues that Toshiba severely distorts its general expenses in its submission in that its claims for circumstance of sale adjustments, including the ESP offset, in price-to-price comparisons are much greater than the general expenses added to constructed value.

Department's Position: Our calculation of constructed value, as set out in the cited policy paper, is in accordance with section 773 of the Tariff Act. Our constructed value includes general expenses (including selling expenses) "usually reflected" in sales of motors of the same general class or kind in the home market that are then adjusted to make allowance for differences in circumstances of sale in accordance with section 773(a)(4)(B) of the Tariff Act. Generally, while general and administrative expense allocations will be the same in any market, selling expense allocations will differ by market. Allowances for these differing selling expense allocations are permitted under section 773(a)(4)(b) of the Tariff Act, and are required as a result of the Department's decision to use home market, rather than U.S. selling expenses, in calculating constructed value. NEMA's suggestion that selling expenses that are statutorily deducted from ESP calculations be added to the constructed value calculation would possibly not allow for fair comparisons between foreign market value and U.S. price.

Finally, upon further analysis of Toshiba's expenses, we agree that certain expenses, specifically, non-operating expenses, should be included in constructed value. We have made appropriate recalculations.

(7) *Comment:* NEMA objects to the use of constructed value for comparison with Yaskawa's U.S. sales of vertical motors, arguing that in the fair value investigation the Department found vertical motors sold in the U.S. to be comparable with horizontal motors sold in Japan. NEMA maintains that Yaskawa's subsequent arguments concerning the non-comparability of vertical and horizontal motors do not warrant a reversal of the original position. Moreover, to the extent that Yaskawa has asserted a claim that vertical motors differ from horizontal motors, its arguments relate only to vertical hollow shaft motors and not to vertical solid shaft motors.

Department's Position: Our determination in the fair value investigation concerned the comparability of specific *Toshiba* vertical and horizontal motors. Whatever the merits of the decision for Toshiba during the investigation, Yaskawa submitted information during the review which adequately demonstrated that its vertical hollow shaft and vertical high thrust solid shaft motors are not comparable to its horizontal solid shaft motors. Yaskawa demonstrated that there are significant differences in component materials, uses, and commercial values. Based on our analysis of this information, we maintain that the vertical and horizontal motors manufactured by Yaskawa are not comparable.

(8) *Comment:* NEMA claims the Department erroneously made purchase price comparisons for Toshiba and Yaskawa sales through their U.S. subsidiaries where the shipments did not pass through a U.S. warehouse. Since the Department used the price charged by Toshiba's and Yaskawa's U.S. subsidiaries for U.S. price and the statute defines these subsidiaries as "exporters", NEMA argues that exporter's sales price should be used.

Department's Position: As provided for in section 772 of the Tariff Act, the Department used purchase price because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

(9) *Comment:* NEMA argues that the Department did not consistently apply its own criteria in selecting the appropriate foreign market sale for comparison. NEMA cites 19 U.S. models of low-voltage and high-voltage motors

where using the five criteria described in Comment #1 for similar merchandise would warrant use of home market sales instead of constructed value or third country sales.

Department's Position: We agree with NEMA with respect to some of the 19 models. As a result, we are deferring appraisement of the affected U.S. sales until a subsequent review.

(10) *Comment:* Toshiba argues that in certain instances the Department incorrectly calculated adjustments for U.S. motor modifications performed by Toshiba in Japan. In a number of cases where motors were modified in Japan, the Department adjusted the calculation of constructed value based on the differences between Toshiba International Corporation's selling price of the modified motors and its selling price of a standard motor of the same rating. As a result, the Department improperly double counted the profit component relating to the modification. Toshiba argues that the Department should include the profit percentage in the constructed value of the standard motor before adding the modification to the constructed value calculations.

Department's Position: Since Toshiba did not provide the cost of production data which the Department requested in order to construct the value of the modification, we used the best information available to calculated the amount. We acknowledge that profit may be included in the modification amount. However, absent actual cost of production information, we cannot calculate the amount of such profit.

(11) *Comment:* Toshiba argues that in certain ESP comparisons the Department used incorrect selling expense deductions in the calculation of Canadian prices. It argues that there is no basis for applying the ESP "cap" for indirect selling expenses, provided for by the last sentence of section 353.15(c) of the Commerce Regulations, since by definition that only applies to home market and not third country sales.

Department's Position: The Department made an adjustment for Canadian selling expenses up to the percent of such expenses incurred on the U.S. sales. The Department erred in its adjustment of the Canadian selling expenses by using a percentage instead of an absolute amount. We have made the appropriate changes. However, the ESP "cap" applies to all foreign market value calculations, regardless of whether home market or third country sales are the basis.

(12) *Comment:* Toshiba alleges specific methodological errors in certain instances. These errors include use of incorrect profit factors and incorrect comparison models.

Department's Position: We have examined each of the sales in question and, where appropriate, we recalculated the results.

After the hearing, Toshiba furnished new information on certain sales for which constructed value was the basis for foreign market value. New information submitted after a hearing is untimely. See, e.g., "Final Results of Administrative Review of Antidumping Finding" regarding stainless steel wire rods from France, 48 FR 2808. We therefore made no adjustments in those cases. Finally, after publication of the preliminary results of review, we found that for certain sales Toshiba failed to supply requested price information in its original response and instead submitted constructed value information. In those instances, we used best information available. The best information available for those sales is the fair value rate.

Final Results of Review

Based on our analysis of the comments received, the additional use of best information as mentioned above, and the correction of certain clerical errors, the margin for Toshiba has changed from that in our preliminary results of review. The results remain the same for Yaskawa and Hitachi. As a result of our review we determined that the following weighted-average margins exist:

Manufacturer	Time period	Margin (percent)
Toshiba	April 1, 1980 to March 31, 1981.	6.30
Yaskawa	April 1, 1980 to November 30, 1981.	0.17
Hitachi	do	6.70

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each manufacturer directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of such Japanese electric motors from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Because the margin for Yaskawa is less then 0.5 percent, and therefore *de minimis* for purposes of cash deposit, the Department shall waive the deposit requirement for Yaskawa. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the 6.30 percent rate. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department is currently conducting the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 30, 1983.

[FR Doc. 83-8751 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket Number ITA-AB-2-80]

Core Laboratories, Inc.; Decision on Appeal

In this appeal, Core Laboratories, Inc. ("Core") challenges the Administrative Law Judge's ("ALJ") finding that it violated the antiboycott laws and regulations and his imposition of civil penalties on Core.[1] While Core does not seriously dispute the facts found by the ALJ,[2] it does contend that the ALJ failed to give adequate consideration to the various arguments presented by it, breaching his responsibilities under the Administrative Procedure Act. In

[1] Congress first enacted the antiboycott legislation involved in this proceeding as an amendment to the Export Administration Act of 1976, Pub. L. No. 95-52, 91 Stat. 235 (1977). This legislation was subsequently reenacted, without changes, as part of the Export Administration Act of 1979, Pub. L. No. 96-72, 93 Stat. 503. This proceeding, involving conduct occurring in 1978, was commenced under the provisions of the 1977 amendment to the 1976 Act and the pertinent regulations of the Department of Commerce. 15 CFR Part 369 (1979). Statutory references are to the 1977 amendment as codified in 50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I, 1977).

[2] In its original appeal papers, Core stated that "necessary findings of fact are erroneous and/or unsupported by substantial evidence of record." (Appeal of Core Laboratories, Inc., Sept. 1, 1981). However, Core has not identified those facts it finds "erroneous," nor does it specifically challenge any of the evidence of record. (Brief of Core Laboratories, Inc. on Appeal After Remand, June 25, 1982.)

addition, Core disputes the interpretation of the antiboycott law and regulations adopted by the ALJ in his ruling.

I have reviewed the record in this proceeding and considered the arguments advanced by Core. On the basis of this review and consideration, I adopt the findings of fact made by the ALJ and also adopt his conclusion that Core's conduct, as reflected in these findings, constituted 28 separate violations of the statute and implementing regulations. As to the appropriate remedy for these violations, I adopt the ALJ's decision that a civil penalty in the amount of $81,300 be assessed against Core, on the terms and conditions stated in the ALJ's Initial Decision.[3]

Background

This administrative enforcement proceeding was initiated on November 19, 1979, by the issuance of a "charging letter" to Core, alleging 28 violations of the antiboycott laws and regulations in connection with certain of Core's international commercial activities. Core filed an answer, denying that its conduct constituted a violation and specifically denying that any of its actions were taken with the required intent to "comply with, further, or support any unsanctioned foreign boycott." 15 CFR 359.1(e)(1).

Core entered into a stipulation of facts with enforcement counsel for the Department and the parties requested the ALJ to resolve four "preliminary" legal issues on the basis of these stipulated facts.[4] [Agreed Stipulation of Facts and Statement of Issues for Preliminary Submission (May 20, 1980).] The ALJ accepted the parties' proposal and, on the basis of the briefs and arguments of the parties, issued a "Preliminary Decision on Agreed Stipulation of Facts and Statement of Issues," (April 7, 1981) resolving each of the four issues adversely to Core.

Following the ALJ's decision, the parties filed a further stipulation of facts, and additional, briefs. Both sides addressed three issues, not considered in the Preliminary Determination, which had been raised by Core's initial statement of issues.[5]

In addition, Core's brief also addressed the bulk of the issues resolved by the ALJ's "Preliminary Decision". On the basis of the parties' submissions, the ALJ issued an "Initial Decision," finding 28 violations of the statute and regulations and imposing a civil penalty of $81,300 subject to partial suspension on conditions specified by him. (Initial Decision (August 6, 1981), hereinafter I.D.,—.)

Core appealed from the Initial Decision, contending that the facutal and legal issues were not adequately explored and that the legal conclusions were contrary to law. Enforcement counsel took the position that the ALJ did not err in his legal conclusions but agreed that the ALJ did not fully articulate the reasons for his conclusions on two issues: (1) Whether information had been "furnished" in violation of the Act and regulations and (2) whether Core had the requisite boycott-related intent. On the basis of the parties' appeal papers, I remanded the proceeding to the ALJ for reconsideration. (Order on Remand (October 13, 1981).)

On remand, the ALJ received additional submissions from the parties and then issued an "Initial Decision on Remand", treating all of the issues earlier disposed of in his "Preliminary" and "Initial" decisions and considering more fully the three issues not treated in the "Preliminary Decision." (I.D.R., May 4, 1982.) Neither Core nor enforcement counsel requested a hearing on remand and none was accorded by the ALJ. Following the issuance of the decision on remand, Core filed additional appeal papers, challenging that decision and requesting a hearing on appeal.

In brief, the ALJ found that Core had, on 28 occasions, used language in connection with transactions with Arab customers which conveyed information about its dealings with a boycotted country in violation of the Act and regulations. The two sentences used by Core were developed by it as a response to Arab information requests which Core knew were boycott-related. The first sentence stated that none of the shipped items "are of Israeli origin, nor do they contain Israeli materials." The second sentence had two parts, first stating that Core had "no direct or indirect connection whatsover with Israel" and then affirmatively stating that the shipped items were "manufactured in the United States of North America."

Core's use of the first sentence was not challenged in this proceeding, on the grounds that it constituted a negative certificate of origin permissible prior to June 21, 1978. 15 CFR 369.3(b)(2). It was Core's second sentence, avowing "no direct or indirect connection" with Israel, which was ruled by the ALJ to violate the prohibition on furnishing information about business relationships with boycotted countries. 50 U.S.C. app. 2403–1a(a)(1)(D); 15 CFR 369.2(d).

Twenty-seven of the twenty-eight violations invoved the stamping of this language on documents relating to shipments in the first quarter of 1978. The twenty-eight violation involved an August 1978 response to an invitation to bid received by Core from the Iraq National Oil Company. The invitation had required respondents to declare they had no relationship with Israel or Israeli entities and would comply with Arab boycott rules. Although Core had, in May 1978, attempted to revise its procedures in view of U.S. antiboycott laws, Core included the same language used in its earlier transactions in its response to the Iraqi request. Approximately seven months later, no Iraqi order having been received, Core voided its response and reissued a new one, without the language in question.

Findings of Fact

Because of their importance to this proceeding, it is necessary to present here in full the facts stipulated by the parties and found by the ALJ, I.D.R., 2–6:

1. Core Laboratories, Inc., ("Core") is a corporation organized under the laws of the State of Delaware. Core's principal office is located in Dallas, Texas. Core is a "United States person" as set forth in 15 CFR 369.1(b).

2. Core provides a wide range of services to the petroleum and mining industries; most of those services involve the measurement and application of data associated with rocks and fluids which comprise oil and gas reservoirs.

3. Core conducts its business in a large number of foreign countries, including Bahrain, Egypt, Iraq, and Libya.

4. Sometime in late 1976 or early 1977, in response to requests for information

[3] I am not adopting the additional condition imposed in the Initial Decision on Remand, which would revoke all export privileges for one year if one-half of the penalty is not paid within 30 days of the Department's final action. (Initial Decision on Remand (May 4, 1982) at 19. Hereinafter I.D.R., —.)

[4] The first of these issues was whether the specific language used by Core on its documents furnished information about Core's business relationships in violation of the Act and regulations. The remaining three issues related to the availability of certain statutory and regulatory exceptions to the prohibitions. Preliminary Decision on Agreed Stipulation of Facts and Statement of Issues (April 7, 1981) at 5–6 (hereinafter P.D.,—).

[5] The three issues addressed by the parties in their briefs were: (1) the interpretation of the "furnishing" language in the prohibition contained in 50 U.S.C. app § 2403–1a(a)(1)(D) and 15 CFR 369.2(d); (2) whether Core had the requisite "intent" to be held legally responsible under the Act and regulations; and (3) what, if any, sanctions should be imposed. See Respondent's Statement of Issues and List of Witnesses and Proposed Exhibits (April 10, 1980) at 2–4; Brief of Respondent Core Laboratgories, Inc. (June 29, 1981); Department of Commerce's Brief on Issues Presented for Final Determination (June 27, 1981).

from Arab countries in connection with shipment of goods to or from those countries, Core adopted the following language to be used uniformly in response to all such requests:

None of the equipment or supplies described in this invoice (or on this sight draft) are of Israeli origin nor do they contain Israeli materials. Core Laboratories, Inc., has no direct or indirect connection whatsoever with Israel and affirms that all of the equipment described was manufactured in the United States of North America.

5. Core was aware that requests for information that prompted the preparation of the above statement were related to the Arab boycott of Israel.

6. Core also adopted the policy that responses to any requests for information that might be boycott-related should be cleared through Core's Executive Vice President in Dallas.

7. In the fall of 1977, Core became aware of the recent amendments to the Export Administration Act and of the regulations proposed to implement those amendments.

8. In early October 1977, a Core employee overseas attended a dinner at which, among others, Stanley Marcuss, then the Deputy Assistant Secretary for Export Administration, U.S. Department of Commerce, spoke concerning the antiboycott law and regulations. Following the meeting, the Core employee sent a memorandum to Core's Executive Vice President in Dallas relaying his impression of the meeting. He stated:

The most important thing that I got out of the meeting was that after 21 June, 1978, we will be in violation if we use a negative boycott statement * * *. As we ony have 8 months to develop a course of action so [sic] we had better get to work.

9. On February 8, 1978, Core's Executive Vice President in Dallas sent a letter to Core's Dallas attorneys seeking advice on how the statement used by Core in responding to requests for information from Arab countries "should be phrased after June 21, 1978."

10. During the period from January 21, 1978, to April 5, 1978, Core on 27 occasions shipped supplies and equipment from its Dallas, Texas, facility to locations in Bahrain, Egypt, Iraq, and Libya. These shipments were made in the interestate or foreign commerce of the United States as defined in 15 CFR 369.1(d) (1) and (2). Accompanying the shipments were invoices and/or certificates of origin, concerning which import and shipping documentation Core was subject to the laws and requirements of the countries to which the shipments were made. Core was also subject to all United States laws and regulations with respect to these transactions.

11. Identical language was placed on the documents accompanying these 27 shipments:

None of the equipment or supplies described in this ——— are of Israeli origin nor do they contain Israeli materials. Core Laboratories, Inc., has no direct or indirect connection whatsoever with Israel, and affirms that all of the equipment described was manufactured in the United States of North America.

The above language was stamped on the documents accompanying these 27 shipments routinely by persons in Core's shipping department in Dallas. No specific request was received by Core to furnish the above language on those documents. The language was added pursuant to the policy established by the company in 1976 with respect to compliance with the shipping and import documentation requirements of certain Arab countries.

12. Each of the 27 transactions was reported by Core to the Department of Commerce. The date each document was prepared and reported to the Department of Commerce is identified in the documents in the record.

13. Each of the 27 shipments originated at Core's Dallas facility. All but one involved shipments to a Core facility in Iraq, Egypt, Libya, or Bahrain; the remaining shipment consisted of personal belongings going to an individual in Egypt.

14. On May 1, 1978, Core's Executive Vice President in Dallas notified Core personnel by memorandum that, effective immediately, Core was modifying its procedures with respect to shipping and import documents.

15. On July 21, 1978, Core received from the Iraq National Oil Company an invitation to bid (request for quotation number X 06.8.1112) that contained the following condition:

The following declaration shall be a condition of any order and Letter of Credit that may result of this for quotation. We hereby certify that the company we represent has no relationship and/or dealing whatsoever with Israel and/or with company/companies owned/controlled and subsidized [sic] by any Israeli establishment, association and organization [sic] directly or indirectly.

We Confirm [sic] that our company is bound to comply with all the rules enacted in this connection by the League of Arab States and applied by Israel Boycott Bureau.

On August 1, 1978, Core submitted a quotation in response to the invitation; the quotation had the following language typed on it:

None of the equipment or supplies described in this invoice (or on this sight draft) are of Israeli origin nor do they contain Israeli materials. Core Laboratories, Inc. has no direct or indirect connection whatsoever with Israel and affirms that all of the equipment described was manufactured in the United States of North America.

16. On or about February 8, 1979, Core personnel discovered the language just set forth on the August 1, 1978, quotation. At that time, no purchase order had been received by Core in response to the quotation. Core immediately informed the Iraq National Oil Company that the August 1, 1978, quotation was void and reissued a quotation that did not contain the language in question.

17. The mailing of the original quotation on August 1, 1978, and the subsequent events, were reported by Core to the Department of Commerce on or about March 5, 1979. Copies of the quotations and other relevant documents were also provided by Core to the Department of Commerce at that time.

18. At all times relevant to this proceeding, Israel was the subject of a foreign boycott which was not sanctioned by United States law or regulation.

Issues on Appeal

Core raises several issues concerning the ALJ's Initial Decision on Remand. First, Core contends that the decision reflects the ALJ's "virtually complete failure to address the arguments" advanced by it. (Appeal of Core Laboratories, Inc. (September 1, 1981)). Core urges that this deficiency be remedied by remanding the proceeding again, to a different ALJ, "for plenary review and the issuance of a new Initial Decision." (Appeal of Core, *supra* at p. 4).

Core also challenges the ALJ's conclusion that multiple violations of the statute and regulations occurred. It takes issue with the ALJ's interpretation of the prohibition on the "furnishing" of certain information to a boycotting country. It urges the applicability of several regulatory exemptions from the prohibition and disputes the ALJ's ruling that it had the requisite "intent" to be held responsible for its violations. Core also argues that the ALJ has given an impermissibly broad construction to the statutory and regulatory language in reaching his conclusions. Finally, Core asserts that the ALJ erred in determining the number of violations arising from its conduct and in altering the remedial portion of his Order on Remand.

In the remainder of this decision, the issues raised by Core, together with the

responses of Commerce enforcement counsel, will be addressed.

1. The Administrative Law Judge's Alleged Failure to Address Core's Contentions

The principal argument presented by Core on appeal in urging remand to a different ALJ is that no review is now possible because the Administrative Procedure Act requirements have not been met by the ALJ. Core argues that the ALJ's determination denied its right under the Administrative Procedure Act to a "meaningful consideration" of its contentions. *Mitchell Energy Corp.* v. *FERC*, 651 F. 2d 414, 417 (5th Cir. 1981).

Core's contentions are founded upon an erroneous view of the ALJ's decisions and a misunderstanding of the APA's application to this proceeding. The APA requires that each party have a reasonable opportunity to present its case and that all agency decisions:

"including initial, recommended, and tentative decisions * * * shall include a statement of:

"A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record * * *" 5 U.S.C. 557(c)(3)(A) (1976)."

Applying this standard to the Initial Decision on Remand, I am satisfied that the ALJ has provided a statement of findings and conclusions, together with the reasons or bases therefor, on all of the material issues of fact and law presented on the record. The ALJ, on remand, addressed those issues which had not been fully treated in his earlier rulings. While Core finds the ALJ's rulings unpersuasive and believes that a fuller treatment of its arguments was appropriate, the APA does not require the ALJ to match his rulings to the length of the parties' arguments. For example, Core has presented lengthy and complex arguments concerning the meaning of its "no direct or indirect connection" language. Yet the APA does not mandate that the resolution of this fairly simple issue be presented at similar length or that each subsidiary part of Core's argument be addressed in detail. What is required is a clear articulation of the reasoning by which each of the issues in the proceeding was resolved. The ALJ's Initial Decision on Remand adequately complies with this APA requirement and remand for further proceedings is unnecessary.

In any event, even if the determination of these issues had not met minimal APA standards, I would not be required to remand this case for further proceedings. The APA requirements for agency decisions must be seen in the context of the entire decision-making process, which includes the appeal of the Initial Decision. The APA provides that "on appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule." 5 USC 557(b).

Since the Assistant Secretary for Trade Administration, as agency decision-maker on appeal, 15 CFR § 388.22(a), has all the powers which would exist in making the initial decision, I am not bound to review only the ALJ's decision, but am free to reexamine the entire record. See, *Containerfreight Transportation Co.* v. *ICC*, 651 F.2d 668, 670 (9th Cir. 1981); *Fink* v. *S.E.C.*, 417 F.2d 1058 (2d Cir. 1969). Therefore, even if the Initial Decision were deficient, that would not prevent the Assistant Secretary from resolving the case through a determination complying with APA standards since the prerogatives which exist in the initial proceeding are retained in this review on appeal.

2. Core's Challenges to the Administrative Law Judge's Interpretation of the Act and Regulations

Notwithstanding its assertion that the ALJ failed to articulate the reasoning behind his determination, Core raises a number of challenges to the ALJ's interpretation of the Act and implementing regulations. These issues are whether the Act and regulations msut be narrowly construed, the meaning of the language Core used on its stamp, and the meaning of the statutory "furnishing" and "intent" language in the context of Core's actions.

A. *Core's Contention That the Act and Regulations Must Be Narrowly Construed.* Core asserts that the Act and regulations must be strictly construed because of the presence of criminal penalties in the Act and that, when so construed, the Act and regulations do not prohibit its conduct. In spite of the fact that the Department of Commerce seeks only civil penalties in this proceeding, Core argues that strict construction is required by the existence of criminal sanctions in the Act's remedial structure. Citing *McBoyle* v. *United States*, 283 U.S. 25, 27 (1931), Core argues that "penal statutes are construed narrowly to insure that no individual is convicted unless 'a fair warning [has first been] given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed'."

A fair interpretation of the Act in light of this principle of statutory construction does not support Core's contention. The Export Administration Act creates a broad regulatory scheme, intended to govern the conduct of U.S. persons involved in export trade in a manner designed to further certain basic U.S. policy objectives. Within the framework of this broad scheme, various remedial options can be pursued to further the regulatory objectives. The fact that criminal penalties are among the remedial options potentially applicable to some types of conduct does not require that the entire regulatory scheme be characterized as penal in nature and given a narrow construction. The Supreme Court recognized this principle in *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356 (1973).

In *Mourning*, the respondent, which was alleged to have violated the Truth in Lending Act regulations of the Federal Reserve Board, relied upon *FCC* v. *American Broadcasting Co.*, 347 U.S. 284 (1954), for the proposition that legislation must be considered penal by virtue of the availability of criminal penalties for certain violations and must be strictly construed even in an administrative proceeding. Noting that the *American Broadcasting* case involved the FCC's administrative interpretation of a criminal provision prohibiting lotteries, the Court distinguished that case from the interpretation of the Truth in Lending Act which it was required to make. The Court stated,

We cannot agree, however, that every section of an act establishing a broad regulatory scheme must be construed as a "penal" provision, as that term is used in *American Broadcasting*, merely because two sections of the Act provide for civil and criminal penalties. 411 U.S. at 375.

As already noted, the antiboycott provisions of the Export Administration Act are, like the Truth in Lending Act, part of a broad regulatory scheme. No good purpose would be served by narrowly construing the entire Act and its regulations merely because there is a possibility of criminal penalties in some cases. See *FEC* v. *Lance*, 635 F2d 1132 (5th Cir. 1981).

Even if Core's contention were accepted, the result reached here would not change. While it is true that "the coverage of an agency regulation should be no broader than what is encompassed within its terms", *Dravo Corp.* v. *OSHRC*, 613 F. 2d 1227, 1232 (3d Cir. 1980), there is no lack of clarity in the Act or regulations as applied here and no impermissable stretching of the

antiboycott provisions in the determination made. As the ALJ's decision and this decision demonstrate, the intent of the act is clear from its legislative history, as well as from the statutory language. An examination of the history and text of these laws indicates the intent to prohibit communication of the type of information involved in this proceeding.

B. *Core's Contention That Its Language Did Not Cover Its Business Relationships.* The findings of fact reflect Core's development, in late 1976, or early 1977, of language for use in responding to information requests from Arab countries which Core knew were related to the Arab boycott of Israel. See *supra*, p. 6. In the transactions in question here, Core used this language on the documents accompanying its shipments, although it appears no specific request had been received for such information.

With respect to these later shipments, Core now contends that its statement that it had "no direct or indirect connection whatsoever with Israel" did not convey information about Core's business relationship with Israel as is contemplated by the Act and regulations. 50 U.S.C. app. 2403–1a(a)(1)(D); 15 CFR 369.2(d). Core urges that "the most reasonable construction of the language is that it describes only Core's *legal* relationship with Israel, i.e., that Core is neither organized under the laws of Israel nor controlled by the State of Israel." (Respondent's Brief on Issues Submitted for Preliminary Determination, p. 9). In other words, it is Core's contention that the word "connection" refers primarily to Core's legal relationship with Israel and that subsidiary meanings of the word should not be considered under the Act and regulations.

It would be asking a great deal to assume that the phrase in question, when used on a commercial document, did not refer to business, as well as legal, relations. As Core admits, "connection" may refer to many types of relationships, e.g., legal, political, social, religious, ethnic, or charitable ties as well as business. Indeed, Core has conceded that such an interpretation is "conceivable, though strained * * *." (Respondent's Brief on Issues submitted for Preliminary Determination, p. 5). Core's tortuous efforts to twist its language into an artificially narrow and legally acceptable form are unpersuasive. As the ALJ stated, "The plain meaning to be ascribed is as broad as the words themselves and includes business as well as other connections or relationships. * * *" (I.D.R., 10).

C. *Core's Contention That It Did Not "Furnish" Information in Violation of the Act and Regulations.* Core asserts that its actions did not constitute a "furnishing" of information concerning its business relationship with a boycotted country as that concept is employed in the Act and regulations. Core maintains that the Department of Commerce must prove that someone outside of Core actually received and read the stamp on the invoices in order for the "furnish" requirement to be satisfied. Core points out that there is no finding on this point and that it has been found that it received no request from boycotting country in connection with the transactions in question.

Core's argument appears to be premised on a misconception concerning the purpose of the Act. The Act does not concern itself with whether the actions of U.S. persons are actually successful in furthering a foreign boycott. What Congress was concerned with was solely the actions of U.S. persons and what it intended to prohibit was specific actions by U.S. persons of a type which would further such foreign boycotts of countries friendly to the United States.

Congress described the act as "prohibiting U.S. citizens and companies from intentionally and knowingly complying with certain secondary and tertiary boycott requirements." H. Rep. No. 95–190, in U.S. Code, Cong. & Ad. News, 95th Cong., 1st Sess. (1977) at 362. These prohibitions cover such actions taken "(1) Pursuant to an agreement with the boycotting country (including any company, national or resident thereof), (2) to comply with a requirement of the boycotting country, or (3) to comply with a request on behalf of the boycotting country." *Id.*, at 383. There is, however, no requirement, in the language of the Act or in its history, that a boycotting country (or the foreign boycott itself) be shown to have received the benefits of the U.S. person's boycott-supportive action. Core's lexicographic arguments concerning the word, "furnishing", are not, in themselves, convincing, and run counter to the basic thrust of the Act.

The record amply demonstrates that Core's actions were of the boycott-supportive type which the Act was intended to prohibit and the absence of evidence that Core was actually successful in adding to the information available to the boycotting countries is irrelevant. As the subsequent discussion of the "intent" requirement shows, Core provided the challenged information in order to respond to anticipated boycott-related information requests of the boycotting countries. Such actions by a U.S. person with respect to its activities in U.S. commerce are sufficient to constitute a violation of the Act.

D. Core's Contention That the Requisite "Intent" Has Not Been Demonstrated.

A violation of the Act occurs when a U.S. person acts "with intent to comply with, further, or support * * *" an unsanctioned foreign boycott. 50 U.S.C. app. 2403–1a(a)(1) (Supp. I, 1977). The regulations make clear that this intent can be found to exist so long as the unsanctioned boycott is "at least one of the reasons" for the action. 15 CFR 369.1(e). Compliance with the boycott does not have to be the "sole, dominant or most-compelling reason" for taking the action. Moreover, intent can be demonstrated by circumstantial evidence. Indeed, intent can be demonstrated by a showing that the person taking the action knew that action was related to the boycott requirements. This intent standard is firmly founded in the legislative history of the Act. For example, the Senate report stated, "Intent to comply with a boycott could be presumed, subject to rebuttal, where from all the facts and circumstances it is reasonably clear that the information is sought for boycott enforcement purposes." S. Rep. No. 95–104, 95th Cong., 1st Sess. 40 (1977).

Core Laboratories argues that it lacked the required intent because its action with regard to one alleged violation was "inadvertent" within the meaning of § 369.1(e)(3), while its conduct with regard to the other 27 instances was simply beyond the reach of the regulations.[6] With regard to the request for information from the Iraq National Oil Company, Core asserts that the response was "inadvertent" since the secretary who added the prohibited paragraph was unaware that Core's new company policy did not permit the use of the language incorporated on its stamp. Core admits that the offending paragraph escaped the attention of the officer of Core who was aware of the new policy and who signed the document. Core asserts, however, that at worst this was negligent and not an intentional violation.

The legislative history of the Act demonstrates that the intent requirement was added in order to exclude "innocent mistakes" from the coverage of the antiboycott provisions. *Arab Boycott: Hearings to Amend and Extend the Export Administration Act before the Subcommittee on International Finance of the Senate Committee on Banking, Housing and*

[6] Brief of Core (June 26, 1981) p. 25.

Urban Affairs, 95th Cong., 1st Sess. 279,280 (1977). But Core's response to the Iraq National Oil Company cannot be characterized as "innocent".

The stipulated facts in this case reflect Core's development of the language supplied by it "in response to requests for information from Arab countries in connection with shipment of goods to or from those countries * * *." (Stipulation of Facts (June 12, 1981)).

Similarly, "Core was aware that requests for information that prompted the preparation of the above statement were related to the Arab boycott of Israel." (Stipulation, para. 5). In one of its pleadings, Core explains that its language was intended "to satisfy, with one uniform paragraph, various imports and shipping document requirements of some countries to which it was making shipments." (Brief of Core (June 26, 1981) at 23–24). In another filing, Core explains that the language was originally developed "to forestall requests for boycott-related information * * *." (Core Brief on Appeal after Remand (June 25, 1982) at 5).

As these findings and statements by Core show, the language was developed as a means to respond to boycott-related information requests. Core asserts that it attempted to bring its practices into compliance with the Act, after the Act's passage, but the record demonstrates that Core's internal procedures were inadequate. Thus, the alleged "inadvertence" is more properly seen as an example of the inadequate compliance procedures.[7]

Core's claim with regard to the 27 other acts must also be rejected. Core asserts that the lack of requisite intent is demonstrated by the fact that it began use of the language in question before the effective date of the prohibition, and merely continued its prior policy of supplying this language after passage of the Act. However, "routine clerical adherence to a practice" [8] long established is not a defense under the Act and regulations; nor can Core rely on its alleged good faith belief in the legality of its conduct as negating the evidence that such conduct was intended to support the Arab boycott of Israel. I see nothing in the recently decided *Briggs and Stratton Corp.* v. *Baldrige*, No. 80–C–721 (May 10, 1982), which would alter these conclusions. While the *Briggs and Stratton* court did consider the issue of intent under the Act and regulations, its views are consistent with the interpretation presented here.

E. Core's Contention that Its Conduct Falls within the Exemptions to the Prohibition on Furnishing Information.

Core attempts to avoid the conclusion that it violated the act and regulations by the contention that its conduct was covered by one or more of three exemptions contained in the regulations. Core's arguments are not convincing.

(1). *Core's Contention That It Was Providing a Permissible Certification of Ownership.*

In a variation of its interpretation of the language used in its shipping documents, Core asserts that that language might also be read as conveying information concerning the nationality of its owners. Core maintains that any such constriction of the language comes within a narrow regulatory exception effective until June 22, 1978. 15 CFR 369.2(d) as published in 43 FR 11576 (March 20, 1978) amending 15 CFR 369.2(d) as published in 43 FR 3508 (Jan. 25, 1978).

The exception relied upon by Core arose from public confusion concerning the application of one example to 15 CFR 369.2(d), as originally published by the Department of Commerce. While the Department had consistently interpreted 15 CFR 369.2(d), as prohibiting a U.S. person from certifying that it was not the parent, subsidiary or affiliate of a blacklisted entity, some members of the public were construing original example (xvi) of the regulation as permitting such a certification (since it permitted a U.S. person to supply information about the nationality of its owners). 43 FR 3508 (Jan. 25, 1978). In March of 1978, the Department revised this example (and added a new example) to make clear its position that a U.S. person "may not furnish information about his affiliation with any other person who may be blacklisted." 43 FR 11576 (March 20, 1978). Because of the public confusion concerning this question, however the interpretation was to become effective June 22, 1978. *Id.*

The short answer to Core's contention is that, even if the exception is applicable, it does not exonerate Core. Core's language is so broad that it may be reasonably construed as conveying business-related information which is prohibited under the Act but not excused by the cited exception. For example, the language may reasonably be read as stating that Core has no personnel or physical assets within Israel and no other commercial relationships with that country. The furnishing of such information is not excused by the exception cited by Core.

(2) *Core's Contention that It Was Providing a Permissible Negative Certificate of Origin.*

The Act and regulations permit U.S. persons to comply with certain aspects of the import and shipping document requirements of a boycotting country with respect to the country of origin of the goods. 15 CFR 369.3(b)(1)(i). Prior to June 21, 1978, they permitted U.S. persons to provide a negative certificate of origin in transactions such as were involved here. The negative certificate of origin was a not infrequent practice of companies dealing with boycotting states prior to passage of the Act and the Act was intended to phase out that practice, permitting positive statements of origin only. The period of time during which it was still permissible to supply negative statements of origin ended on June 21, 1978.

The first sentence of the stamp which Core Laboratories used states: "None of the equipment or supplies described in this ———— are of Israel origin nor do they contain Israeli materials." That comment is conceded to have been a permissible negative statement of origin under the regulations in effect prior to June 22, 1978.

However, counsel for Core Laboratories, Inc., contends that the language challenged in this proceeding ("Core Laboratories, Inc., has no direct connection whatsover with Israel") also amounted to no more than a negative certificate of origin of the goods. As Judge Dolan observed, Core's assertion is strained since the language does not explicitly address the place of manufacture or the origin of the materials. Indeed, the language is not only ambiguous about the country of origin but would have to be considered redundant when compared with the previous sentence on the stamp. The plain meaning of the sentence goes well beyond issues of country of origin and disclaims any relationship at all between Core and the boycotted country. In addition, Core has not established that the furnishing of such

[7] The record reveals that the challenged language was added by the secretary to the President of Core's export company and that the secretary believed it was Core's policy to supply such information, notwithstanding Core's attempts to achieve compliance with the Act three months earlier. Affidavit of Joan Chapman (June 5, 1981) para. 7. While the President of Core's exporting company was familiar with Core's efforts to achieve compliance, he failed to detect the recurrence of Core's boycott-related language in the document in question. Affidavit of George H. Venner, Jr. (June 5, 1981) para. 2. In addition, while Core had required that all statements of "policy or position in the foreign boycott area" be cleared by its executive vice-president, Affidavit of Gould Whaley, Jr. (June 10, 1981) para. 2, the document in question was not so cleared.

[8] Brief of Core (June 26, 1981) p. 28.

broad information was a "requirement" of the countries to which it made its shipments, within the meaning of 15 CFR 369.3(b)(1). Core's argument that the language was adopted prior to either the passage of the Act or the implementing regulations is similarly unpersuasive. As Judge Dolan pointed out in the Initial Decision on Remand:

> "When the law changed in 1977, it was incumbent upon those practicing in the field to ascertain its impact upon their operations, and make appropriate changes. Core simply failed to do that." Initial Decision on Remand (May 4, 1982) at 14.

(3). *Core's Contention that Its Conduct is covered by the "Grace Period" of 15 CFR 369.3(b)(2).*

In a contention closely related to the preceding point, Core urges that its conduct is excepted from the Act's prohibitions by the grace period contained in 15 CFR 369.3(b)(2). To understand Core's contention, it is necessary to put this grace period into its regulatory context.

As noted in the preceding section, the Act and regulations contain an exception for the furnishing of certain categories of information pursuant to the requirements imposed by boycotting countries with respect to import and shipping documents. 50 U.S.C. app. 2403–1a(a)(2)(B); 15 CFR 369.3(b)(2). The categories of information which may be provided pursuant to such requirements relate to: (1) The country of origin of the goods; (2) the name of the carrier; (3) the route of the shipment; (4) the name of the supplier of the shipment; and (5) the name of the provider of other services. *Id.*

At the time of passage of the Act, however, Congress was aware that U.S. persons had sometimes provided those categories of information in "negative" terms, e.g., the goods are *not* of Israeli origin.

While Congress did not seek to prevent U.S. persons from agreeing to honor primary aspects of a boycott with respect to their shipments to boycotting countries, 15 CFR 369.3(a)(1) ("Compliance with Import Requirements of a Boycotting Country"), it regarded the furnishing of "negative" certificates concerning such compliance as a practice not compelled by the primary boycott and inconsistent with U.S. antiboycott policy.[9] For that reason, it did not except such "negative" certifications from the prohibition on the furnishing of business-related information but merely provided a brief grace period during which U.S. persons would be expected to eliminate such negative certificates from their business practices. However, the touchstone for both the general exception of § 369.3(b) and the "grace period" within it is to relationship of the required information to the primary boycott.

Core seeks to turn this grace period into an exception for any negative language so long as the language "appeared on import and shipping documents and was not obviously and wholly unrelated to the ordinary purposes of such documents." (Respondent's Brief on Issues Submitted for Preliminary Decision (June 4, 1981) at 21). In other words, Core seeks to ignore the Congressional purpose behind the "grace period" of § 369.3(b)(2) and to make it applicable to the furnishing of negative information whether or not required by the boycotting country as part of its primary boycott. There is no basis in the Act or regulations for such a construction.

In both the Act and the regulations, the grace period is made applicable only to negative certifications: (1) Of the five types of information previously described, (2) which are required by the boycotting countries. The Act, after permitting compliance with requirements with respect to the five categories of information, states that no information "in response to such requirements" may be stated in the negative after the grace period. 50 U.S.C. app. 2403–1a(a)(2)(B). The regulations first itemize the information which may be provided pursuant to such requirements, 15 CFR 369.3(b)(1), and then state that "all such information" must be in positive terms after the grace period. 15 CFR 369.3(b)(2).

To read the grace period in the manner proposed by Core would be inconsistent with the Congressional purpose manifest in the Act and would exempt from the Act conduct never contemplated by Congress for such treatment. Core's language, while boycott-supportive, was not *required* by a boycotting country and is much broader than that permitted by 15 CFR 369.3(b)(1). The disclaimer of any connection with Israel "direct or indirect" can reasonably be construed as extending beyond the area covered by the primary boycott and into the secondary or tertiary boycott, involving relationships with black-listed persons. Section 369.3(b) provides no rationale for exempting such language from the prohibitions of the Act.

Core seeks to bolster its argument by citing several interpretations of the Act and regulations issued by the Department 15 CFR Part 369, Supp's. Nos. 1 and 2. These interpretations deal with a complex series of facts concerning certifications relating to shipping and insurance services which boycotting countries were requiring of U.S. persons seeking to do business with them. One part of the first interpretation permits parties unrelated to a vessel to comply with a boycotting country requirement for a certification that a vessel is "eligible" or "otherwise eligible" to enter a boycotting country's ports on the basis of the "grace period" in 15 CFR 369.3(b)(2).

Core asserts that the "eligibility" certification has nothing to do with the five types of information referred to in 15 CFR 369.3(b)(1). Indeed, Core asserts that these interpretations should be read as extending the grace period "to *any* information furnished on impact and shipping documents prior to June 22, 1978." (Respondent's Brief (June 29, 1981) at 18.)

As already noted, the grace period of 15 CFR 369.3(b)(2) is applicable only with respect to information: (1) Which boycotting countries *require* U.S. persons to supply, and (2) which relates to the five subjects denominated in 15 CFR 369.3(b)(1). The interpretations cited by Core are consistent with these principles. As a reading will disclose, the interpretations are all premised on the boycotting countries requiring that the information in question be provided by U.S. persons. While Core has acknowledged the boycott-related nature of its own language, it has not demonstrated that such information was required by the countries with which it was dealing.

While the certifications dealt with in the interpretations do not precisely track the language used in 15 CFR 369.3(b)(1), they are, contrary to Core's contention, quite properly viewed as falling within the categories described in that subsection. The statutory and regulatory language itemize these five categories as the general areas of inquiry for boycotting countries seeking to enforce their primary boycotts. The examples to the regulations provide concrete

[9] In adopting the Act, Congress recognized "the futility of attempting to legislate against a primary boycott itself." S. Rep. No. 95–104, *supra* at 24. Noting that "[a]ll countries, including the United States, insist on a right to refuse trade with their enemies," *id.*, Congress permitted compliance with boycotting country requirements designed to prevent goods, services, and carriers of the boycotted country from entering the boycotting country. It also permitted compliance with boycotting country documentation requirements needed to carry out the primary boycott. However, "in order to prevent this exception from being used as a device for enforcement of the secondary or tertiary dimensions of a boycott, or to act as a psychological barrier to trade with the boycotted country or black-listed firms," *id.*, it barred negative certifications in response to these documentation requirements after a specified adjustment period [the "grace period" of 15 CFR 369.3(b)(2)].

illustrations of language which falls within these categories, and the interpretations cited by Core are further demonstrations of the way in which the exception is to be applied to concrete factual situtions. The interpretations, like the examples, are founded on the Congressional intention to except ony those types of information necessary to comply with primary boycott requirements, whatever form of language is employed. Thus, while the interpretations deal with the certification of vessel "eligibility," they interpret that language as emanating from primary boycott concerns with the affiliation of carriers entering territorial waters—a concern identified in categories (ii) and (iii) of the regulation. Since Core's language is not limited to the primary-boycott-related categories of 15 CFR 369.3(b)(1) and the interpretations, it cannot claim the benefits of 15 CFR 369.3(b)(3)'s grace period.

3. Core's Contentions Concerning Sanctions

Core raises a number of issues pertinent to the sanctions applied in this case, including challenges to the number of violations determined by the ALJ, the size of the civil penalties assessed and the ability of the enforcement counsel to seek increased penalties on this appeal. With regard to the number of violations which occurred, the controlling statutory langauge states:

> The head of any department or agency * * * or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for *each* violation of this Act or any regulation, order or license issued under this Act * * *. (Emphasis added.) 50 U.S.C. App. 2406(c) (1976 & Supp. I, 1977).

Core argues that only two, or at most five, violations can be found here, not the twenty-eight determined by the ALJ. Core's reasoning is as follows: twenty-seven invoices were stamped using the *same* stamp pursuant to *one* corporate policy, thus constituting *one* violation. Alternatively, Core argues that its shipments went to only four countries, and if each destination is counted as a separate violation, then there would be a total of four violations. The response to the Iraq National Oil Company would constitute the second or fifth violation under Core's alternative theories.

In support of its interpretation, Core sites, *SEC* v. *Sloan*, 436 U.S. 103, 112 (1978), in which the court held that the SEC had no authority, under a provision permitting summary suspension of stock trading for up to 10 days, to issue a series of suspension orders based on a "single set of circumstances." The *Sloan* case is of little precedential value here, however. In *Sloan*, in contrast to the present case, it was clear that a single manipulative scheme provided the basis for the agency's actions and the question addressed by the Court was not how many violations were involved but whether the SEC could use its summary suspension authority to effect a long-term suspension of trading. Noting that in other portions of the Securities Exchange Act of 1934 Congress had required notice and an opportunity for hearing before the imposition of long-term trading restrictions, the court rejected the SEC's use of its summary remedial authority in the circumstances before it.

In its brief on appeal, Core also notes the rejection of an argument similar to its argument in *United States* v. *Reader's Digest Association*, 662 F. 2d 955 (3d Cir. 1981). In that case, the defendant argued that each of its mass mailings, and not each individual distribution of deceptive material, constituted a violation of the cease and desist order entered against it by the FTC in settlement of an earlier administrative proceeding under Section 5 of the Federal Trade Commission Act. 15 U.S.C. 45.

The pertinent statute, 15 U.S.C. 45(l), provided that a civil penalty should be paid "for each violation of a current order and the order prohibited the distribution of any simulated item of value. The court held that each letter containing simulated items of value constituted a separate violation for civil penalty purposes and that the defendant's contention would eviscerate any punitive or deterrent effect of FTC penalty proceedings. 662 F.2d, at 967. On the basis of the facts in the present case and the pertinent provisions of the Act, Core's contentions concerning the number of violations involved here must be rejected.

The $81,300 in civil penalties assessed by the ALJ is also challenged by Core as excessive, while enforcement counsel press for larger penalties. core asserts that enforcement counsel, not having appealed from the ALJ's determination, cannot seek an increase in penalties before me. The appeal procedures of the Department of Commerce generally contemplate that the issues on appeal will be those raised by the appellant in his papers, 15 CFR 388.22, but Core has raised the appropriateness of the penalty amount in its papers. Once the appeal is taken and the issue raised, the Assistant Secretary for Trade Administration has all the powers which the ALJ has in making the initial decision and is free to endorse, reject, or modify the sanctions set by the ALJ. 5 U.S.C. 557(b)(1976).

However, after a full consideration of the record and of the ALJ's decision, I find his assessment of $3,000 for the first 27 violations and $300 for the 28th to be reasonable in the circumstances presented here.

Core also protests the inclusion of new conditions in the remedial order by the ALJ. The paragraph inserted at the end of the Order would revoke Core's export privileges for one year unless one-half of the monetary penalty was paid within 30 days of the final date of the order. This language did not appear in the Initial Decision.

Although it is within my power on appeal to impose such a sanction since it is well within the parameters allowed by law, I am not convinced such a provision is appropriate here. It does not appear that the parties were given an opportunity to consider this provision prior to its imposition or to argue its merits before the ALJ. Nor did the ALJ provide any explanation for this modification of his earlier decision. In these circumstances, I can see no reason to include it in the remedial order in this case.

Order

A civil penalty of $81,300 for the twenty-eight violations of 15 CFR 369.2(d) is assessed against the Defendant, Core Laboratories, Inc. The payment of one-half of that amount is suspended for one year from the data on which the Department of Commerce's final administrative action in this case becomes effective and on condition: (a) that the Defendant commit no further violations of the Export Administration Act during that period, and (b) that it submit within 90 days of the effective date of this Order as stated above, and have approved by the Deputy Assistant Secretary for Export Administration, a satisfactory plan for continuing training of its staff on understanding of and compliance with the Export Administration Act.

So Ordered.

Dated: March 14, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration, U.S. Department of Commerce.

[FR Doc. 83-8752 Filed 4-4-83; 8:45 am]
BILLING CODE 3510-25-M

Anhydrous and Aqua Ammonia From Mexico; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of anhydrous and aqua ammonia, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 3.18 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the merchandise subject to this determination which is entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on the merchandise in the amount equal to the estimated net bounty or grant. If this investigation proceeds normally, we will make our final determination by June 10, 1983.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Mexico of anhydrous and aqua ammonia, as described in the "Scope of Investigation" section of this notice. We estimate the net bounty or grant to be 3.18 percent *ad valorem*.

Case History

On October 28, 1982, we received a petition from counsel of behalf of the industry in the United States producing anhydrous and aqua ammonia. The petition alleges that the government of Mexico bestows bounties or grants upon the manufacture, production, or exportation of anhydrous and aqua ammonia within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on November 14, 1982, we started an investigation (47 Fed. Reg. 53440). We stated that we expected to issue a preliminary determination on or before January 21, 1983.

On December 29, 1982, we postponed the preliminary determination until not later than March 28, 1983. Under section 703(c)(1)(B) of the Act, we determined that the case is extraordinarily complicated because the alleged subsidy practices are numerous and complex and present novel issues (48 Fed. Reg. 683). We determined that the government of Mexico and the other parties concerned were cooperating, and that additional time was necessary to make the preliminary determination.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. Under this section, since certain of the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry. Similarly, with respect to the merchandise which is nondutiable, no injury determination is required by the ITC because there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

On December 6, 1982, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. In a letter dated December 16, 1982, the government of Mexico requested that this case be designated "extraordinarily complicated" under section 703(c)(1)(B) of the Act. The government of Mexico submitted a response to our questionnaire on February 1, 1983. Additional information was supplied on February 4, 1983. After reviewing the government of Mexico's response, we submitted additional questions and requests for information in a letter dated February 18, 1983. The government of Mexico responded by providing additional information on March 4, 1983.

Petroleos Mexicanos (Pemex), which is a special governmental organism that produces and exports ammonia, provided additional information on March 17 and 25, 1983.

Scope of Investigation

The merchandise covered by this investigation is anhydrous and aqua ammonia from Mexico. The merchandise is currently classified under *Tariff Schedules of the United States Annotated* (TSUSA) numbers 480.6540, 480.6560, 417.2000, and 417.2200.

Anhydrous and aqua ammonia imported under item numbers TSUSA 480.6540 and 480.6560 are duty free. Imports of anhydrous and aqua ammonia under TSUSA item numbers 417.2000 and 417.2200 are dutiable.

Currently, Pemex is the only Mexican producer of ammonia for export sales. Fertilizantes Mexicanos, S.A. (Fertimex) produces a small amount of ammonia for its own internal consumption in manufacturing ammonia-based fertilizers. Pemex exports only liquid anhydrous ammonia; it does not export aqua ammonia (ammonia in solution).

For purposes of the preliminary determination, we are measuring subsidization for calendar year 1981, the most recent period for which all data are available.

Analysis of Programs

Based upon our analysis to date of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined to Confer a Bounty or Grant

We preliminarily determine that bounties or grants are being provided to the manufacturers, producers or exporters of ammonia in Mexico, under the following programs of the government of Mexico.

A. Preferential Pricing for Natural Gas Used to Manufacture Ammonia

As noted above, Pemex is the only Mexican producer of ammonia for either domestic or export sale. Fertimex produces a small amount of ammonia (approximately 16,000 metric tons per year) for its own internal consumption, but it is not authorized to make export sales of anhydrous ammonia.

Pemex is a special governmental organism created by the Decree of the Congress of the United Mexican States of June 7, 1938. The Mexican government carries out the exploration and exploitation of the nation's hydrocarbon assets through Pemex. The principal purposes of Pemex are the exploration, exploitation, refining, transportation, storage, distribution and first-hand sale of petroleum, natural and synthetic gas and refined products; the manufacture, storage, transportation, distribution and first-hand sale of petroleum derivatives which can be used as basic industrial raw materials; and such other activities as are directly or indirectly related to the petroleum and petrochemical industries.

Petitioners allege that the government of Mexio confers a bounty or grant upon Pemex as ammonia producer through its policies for natural gas, which is used as a feedstock and energy source in the

production of ammonia. First, petitioners allege that we should compare the export price of natural gas to its price to the ammonia industry within Mexico. The price of natural gas for export sales was substantially higher than the price of natural gas within Mexico during the period for which we are measuring subsidization.

The existence of a price differential between export and domestic sales of natural gas does not, in and of itself, confer a bounty or grant on ammonia producers within Mexico. Rather, we follow the criteria in section 771(5) of the Act to determine whether this practice confers either an export or domestic bounty or grant. While this investigation is governed procedurally by section 303 of the Act, an analysis of programs based on Title VII of the Act is relevant (*See* section 103(b) of the Trade Agreements Act of 1979).

We preliminarily determine that the pricing differential for export and domestic sales of Mexican natural gas confers neither an export subsidy nor a domestic subsidy upon the Mexican ammonia industry. The pricing differential does not confer a benefit contingent upon export performance, or stimulate export sales of ammonia over domestic sales. Nor does it benefit a "specific enterprise or industry, or group of enterprises or industries" within Mexico. Therefore, our preliminary view is that no bounty or grant is thereby conferred.

Petitioners also note that the natural gas is available to industrial users within Mexico at prices below those charged to other users.

There are two categories of natural gas prices in Mexico, one for industrial use and another for residential use. Both are set by the Direccion General de Precios of the Secretaria de Comercio. The industrial use category is applicable to gas sold for industrial purposes, while the residential use category applies to gas sold for residential, commercial and service uses.

According to the Mexican government, all industrial users of natural gas not receiving sector or region specific benefits under the National Industrial Development Plan (see section entitled "Programs Preliminarily Determined Not to Confer Bounties or Grants on the Merchandise Under Investigation" of this notice), are charged the same price for this product. Since all industrial users of natural gas can obtain this good at the same price, gas is not provided to a "specific enterprise or industry, or group of enterprises or industries" under section 771(5)(B) of the Act. Therefore, a domestic bounty or grant is not conferred. In addition, the price to all indusrial users of natural gas is not contingent upon export performance. Nor do we have any information to indicate that the pricing policy for industrial users is operated to stimulate export sales over domestic sales. Thus, this practice does not confer an export bounty or grant.

Petitioners allege a bounty or grant is conferred because Pemex's cost of natural gas used in producing ammonia is less than the price charged to other industrial users of natural gas. Because Pemex is an integrated producer, it uses its internal natural gas supplies in manufacturing ammonia rather than purchasing natural gas. Pemex accounts for internal gas usage based upon costs, calculated on an annual basis. Pemex's internal cost for natural gas used in ammonia production in 1981 was below the price of natural gas for industrial users in Mexico. We preliminarily determine that a countervailable domestic bounty or grant is thereby conferred. A specific enterprise or industry, the ammonia industry, appears to receive a good, natural gas, at rates which are preferential as compared to rates applicable to other industrial gas users in Mexico.

The fact that the same entity, Pemex, produces both natural gas and ammonia does not necessarily dictate a different result. In the context of countervailing duty investigations, where a government provides a good or service to a "specific enterprise or industry or group of enterprises or industries," we must inquire whether it does so at "preferential rates." Although the "rate" which Pemex as natural gas producer charges itself as ammonia producer for natural gas is an internal accounting matter, we nonetheless must use it as the best information available for purposes of this preliminary determination. Since Pemex's cost of natural gas used in ammonia production is less than the price which the Mexican government establishes for natural gas to other industrial gas users, we preliminarily determine that a bounty or grant is thereby bestowed.

We calculated the estimated bounty or grant Pemex received under the government of Mexico's preferential pricing policy for natural gas used for ammonia production by calculating the amount of natural gas used to produce the ammonia sold in 1981. We allocated the benefit received for ammonia sales in 1981 over the value of total sales of ammonia in 1981.

The estimated net bounty or grant for the government of Mexico's preferential pricing policy for natural gas used to manufacture ammonia is 2.96 percent *ad valorem*.

B. "Capital Contributions" from the Mexican Government

Pemex's annual reports and the government of Mexico's response show that Pemex received 6,318.2 million pesos as "capital contributions" from the federal Mexican government from 1938 until 1975. None of these contributions was directly related to ammonia production.

We asked whether these "capital contributions" were infusions of equity, grants, or loans (and if so, on what dates and terms). No adequate response has been given. For this preliminary determination, we assumed that they were grants.

Based on information given by respondent, 20 years is the estimated life of capital assets used in the ammonia industry in Mexico. We applied our grants methodology to the seven "capital contributions" bestowed during the last 20 years and allocated their benefits over 20 years. Since we allocated benefits received in one year to other years, we determined the present value of the benefits using a discount rate. We would prefer to use the long-term government bond rate in the currency involved as the discount rate. However, we were unable for this preliminary determination to locate this rate for the relevant years for the Mexican peso. Thus, the Department chose as its discount rate the U.S. long-term federal bond rate. Using the best information available, we determined the capital contributions were received in 1971 through 1975, and used the above described bond rate for the year the money was received as the discount rate. Since these rates reflect the U.S. dollar discount rates, grant amounts were converted to dollars at the peso/dollar exchange rate when the grant was given. This was done because the grants were dominated in pesos, but the source of the discount rate reflected no exchange rate risk over the period of the grant.

We calculated the estimated net bounty or grant for the "capital contributions" Pemex received from the government of Mexico by allocating the net benefit over Pemex's total sales. This amount is 0.22 percent *ad valorem*.

II. Programs Preliminarily Determined Not to Confer Bounties or Grants on the Merchandise Under Investigation

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers,

or exporters in Mexico of ammonia under the following programs:

A. Preferential Export Tax Program for Petrochemicals

In a memorandum filed March 10, 1983, petitioners alleged that the government of Mexico's export tax scheme on crude oil and derivatives, excluding petrochemicals, confers a bounty or grant on the ammonia industry. After reviewing the government of Mexico's response, petitioners believe that the government of Mexico levies a 58 percent export tax on crude oil and derivatives, but either exempts or taxes at a lower rate petrochemical exports, the bulk of which is ammonia. Thus, it appears to petitioners that Pemex's export sales of ammonia are alleviated, in whole or in part, from a tax burden imposed on exports of crude oil, its derivatives, and presumably natural gas.

Petitioners argue that the Department is bound by *Hammond Lead Products, Inc.* v. *United States*, 306 F. Supp. 460 (Cust. Ct. 1969), *rev'd* 440 F. 2d 1024 (C.C.P.A.), *cert. denied*, 404 U.S. 1005 (1971). In *Hammond Lead*, the Customs Court decided that, based on the facts of that case, a Mexican tax scheme whereby all lead products except litharge were subject to a significant export tax conferred a bounty or grant. While the Department of the Treasury, the former administering authority, appealed the *Hammond Lead* decision on the merits of the case, the issue was never decided because the case was reversed and dismissed by the Court of Customs and Patent Appeals on jurisdictional grounds. Therefore, neither the Treasury nor the Commerce Department have viewed the case as precedential, and the lower court decision has not been followed.

Furthermore, in *Hammond Lead* the Court did not necessarily determine that all exemptions from export taxes are countervailable. Although the imposition or removal of a disadvantage may affect production of a particular good and thus its trade flow, a bounty or grant does not necessarily result. Such logic would lead us to conclude that the imposition or nonimposition of virtually any disadvantage is or may be a subsidy. Any time a government intervened at the border—such as with export taxes, import duties, or quantitative import or export restrictions on a product used as an input in further production—such action arguably could increase the quantities (and possibly lower the prices) of the domestically produced input product available in further production. The proposition that such governmental actions necessarily confer bounties or grants is untenable on its face, and unsupported by the Act and its legislative history.

In any case, this investigation is distinguishable from *Hammond Lead*, where the court observed that litharge was the sole lead product exempted from an export tax. Other lead products were taxed. There is no evidence here that ammonia is the only petrochemical product exempted or allowed to pay a lower tax.

The fact that exports of natural gas—from which ammonia is made—are subject to a significant export tax undoubtedly discourages exports of natural gas. Theoretically, this could encourage the domestic sale and use of natural gas and that could stimulate production of goods derived from gas, including ammonia. However, such possible increased production would not necessarily stimulate export sales of ammonia over domestic sales, even if all such sales consequently increased. In addition, exemption from the export tax (or imposition of a lesser tax) is not contingent upon export performance by Mexican ammonia producers. We preliminarily determine that ammonia's exemption from an export tax (or subjection to a lesser tax) is not an export bounty or grant.

Nor does the export tax arrangement cited by petitioner appear to confer a domestic bounty or grant. Even if the tax scheme theoretically encourages domestic sales of natural gas at prices lower than those which would be available if there were no export tax, such gas is not provided to a "specific enterprise or industry, or group of enterprises or industries." It is instead generally available and used by a wide spectrum of industries and individual consumers, as described in the section entitled "Programs Preliminarily Determined to Confer a Bounty or Grant."

Moreover, the argument that an export tax on an input (in this case natural gas) confers a bounty or grant on a product (ammonia) using this input, must be based on the fact that the government caused the domestic price of the input to the ammonia industry to drop through use of the export tax (because less would be exported, domestic supply would increase, and the cost per unit would thereby decrease). However, actual resulting prices would depend on a complicated interaction of domestic and international supply and demand elasticities and substitution effects of the input. We have no evidence indicating that the Mexican government performed such a complicated analysis and targeted a specific industry or group of industries. Any real price effect caused in particular by the export tax would be generally available in the Mexican economy to all users of natural gas.

For the above reasons, we preliminarily determine that Mexico's imposition of a 58 percent tax on exports of natural gas, and of a lesser or no tax on exports of ammonia, does not confer a bounty or grant on ammonia producers.

B. Certificates of Fiscal Promotion for Domestically Manufactured Capital Goods

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits which are called Certificates of Fiscal Promotion (CEPROFIs) are used to promote the NIDP goals, which include increasing employment, promoting regional decentralization, and developing industry, particularly for small and medium-sized firms.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year periods to pay federal taxes. CEPROFI certificates are granted for many purposes including investments in "priority" industrial regions of the country, as well as for investments that are available to all companies on equal terms. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plant and equipment, or the value of purchases of capital goods produced in Mexico.

Pemex received CEPROFIs for new domestically manufactured capital goods during this period. However, these CEPROFIs are not limited to a specific industry, group of industries or to companies located in specific regions of the country. We do not consider this type of CEPROFI provided for this purpose to confer a bounty or grant. The response states that Pemex received no other CEPROFIs during the period for which we measured subsidization. (*See* section entitled "Programs Preliminarily Determined Not Used").

III. Programs Preliminarily Determined Not Used

We preliminarily determine that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" are not used by the manufacturers, producers, or exporters of ammonia.

A. Preferential Financing

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions establish contracts for lines of credit with manufacturers and exporters of merchandise.

The response states that Pemex has not received any FOMEX pre-export financing with respect to ammonia and there has not been any FOMEX export financing of Pemex ammonia exports to the United States.

B. Preferential State Tax Incentives

The response states that the ammonia industry did not receive any tax incentives, tax discounts or tax rebates from Mexican state or local governments. In addition, the ammonia industry did not get any special treatment on real estate taxes or on infrastructure taxes.

C. Government Financed Technology Development

The response states that Pemex did not receive any preferential loans, grants, or other assistance under the NIDP to help acquire technology for new plant and equipment. Moreover, it states that the ammonia industry did not receive design engineering or technical assistance in planning the construction of ammonia facilities.

D. Government Financed Industrial Promotion

The response states that the ammonia industry did not receive any financial, technical, or other assistance for industrial promotion.

E. Preferential Vessel, Freight, Terminal, Insurance and Internal Transportation Benefits

The response states that the ammonia industry did not receive any direct or indirect tax rebates or price discounts or rebates on freight, vessels, insurance, or terminal storage expenses incurred for domestic transportation of ammonia from the plant to seaports, or from the plant to border points for export to the United States. In addition, the response states the ammonia industry did not receive any direct or indirect tax rebates or any price discounts or rebates on brokerage, seaport handling, ocean freight, or ocean insurance for exportation of ammonia to the United States.

F. Free Export Marketing Promotion

The response states that the ammonia industry has not received overseas marketing and technical services from the Mexican Foreign Trade Institute for exportation of ammonia to the United States.

G. Import Duty Rebates on Equipment Used in Export Production

The response states that the ammonia industry has not received import duty reductions or rebates on imported equipment used by the ammonia industry.

H. Mexican Credit Insurance

Petitioners allege that Mexican manufacturers receive from Compania Mexicana de Seguros de Credito (COMESEC) commercial risk insurance at preferential rates for exports. COMESEC is a company founded by law and owned by private insurance companies which provide export insurance. The Mexican government's response states that PEMEX does not use COMESEC commercial risk insurance.

I. Dual Level Currency Exchange

Petitioners allege that manufacturers, producers, or exporters of ammonia receive benefits under a discriminatory dual exchange rate system.

The government of Mexico's response states that the dual exchange rate was not applicable to Pemex, because Pemex is permitted to maintain a dollar account for the purpose of making payments with respect to foreign purchases and foreign debt obligations.

J. CEPROFIs for Priority Sectors and/or Regions

During the period for which we are measuring subsidization, the government of Mexico's response states that PEMEX did not receive any CEPROFIs for the purpose of encouraging industrial development in specific regions of Mexico, or benefits targeted to a specific sector or sectors of the economy.

K. Certificado de Devolucion de Impuesto (CEDI)

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of exported product.

The government of Mexico suspended the eligibility of all products for CEDI tax rebates by an Executive Order published on August 25, 1982, in the *Diario Oficial de la Federacion* (Official Gazette).

The response states that ammonia never was, and is not now, eligible for CEDI.

L. Preferential Pricing of Industrial Energy or Basic Petrochemical Products

The regulations regarding price differentials published in the official publication of the Mexican government on December 29, 1978 and June 19 and 21, 1979 state that companies in a priority development zone (Category 1–A) can receive 30 percent discounts on the cost of their industrial energy. Also, petrochemical companies in this priority development zone under certain conditions, including agreeing to export 25 percent of their product for three years, are eligible to receive a 30 percent discount on their consumption of basic petrochemical products. While the former appears to be a regional benefit and the latter an export benefit, the response states that no price differentials have been granted to the ammonia industry.

IV. Programs For Which We Are Seeking Further Information

A. Exemption From Revenue Tax on Natural Gas Sales

Petitioner alleges that the ammonia industry receives a bounty or grant, if Pemex does not pay a 27 percent revenue tax when it transfers, within the corporation, natural gas for ammonia production, which Pemex must pay when it sells natural gas to unrelated domestic buyers. We note that it is a normal commercial and tax practice for a company not to incur taxes on intra-corporate transfers of goods where there is no sale. In any event, we currently lack sufficient information to determine whether Pemex pays a 27 percent tax on transfers of natural gas to its ammonia facilities, or whether it is exempted from such a tax when it sells natural gas to unrelated parties. Therefore, we will seek further information on this issue before our final determination.

B. Short-term Loans and Borrowings

The response states that Pemex received various short-term loans at rates corresponding to market rates from the Fondo de Financiamento del Sector Publico, and that National Financiera acts as its agent for

borrowings on commercial terms.

We will seek information about these loans so that we can determine whether or not they were made on terms inconsistent with commercial considerations.

Verification

In accordance with section 776(a) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of anhydrous and aqua ammonia from Mexico which was entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of the merchandise in the amount of 3.18 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on May 3, 1983, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy (for Policy) to the Deputy Assistant Secretary by April 26, 1983.

Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-8873 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

National Oceanic and Atmospheric Administration; Implemeneting the National Environmental Policy Act; and Environmental Effects Abroad of Major Federal Actions

This Notice supersedes the materials appearing at 45 FR 47898 of July 17, 1980 and 45 FR 80855 of December 8, 1980.

The revision of Department Administrative Order 216-6, "Implementing the National Environmental Policy Act", implements Section 102(2) of the National Environmental Policy Act and the Council on Environmental Quality regulations published pursuant to the Act.

The revision of Department Administrative Order 216-12, "Environmental Effects Abroad of Major Federal Actions", implements requirements set forth for the preparation of environmental documents for use by Federal agencies in reaching decisions on major Federal actions having significant effects on the environment abroad.

Both Orders are effective March 10, 1983. The revisions of both Orders represent general updates with particular focus on the redesignation of Departmental units and officials responsible for executing the Orders to reflect that the Administrator, NOAA, has primary implementing responsibility, supported by the NOAA Ecology and Conservation Division.

For further information contact: Edward J. Wilczynski, Environmental Compliance Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Room 6800, Washington, D.C. 20230, (202) 377-5181.

Frederick R. Jones,

Acting Director, Office of Organization and Management Systems.

[FR Doc. 83-8852 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-DK-M

Office of the Secretary

[Dept. Organization Order 10-14, Transmittal 664]

Department Organization Order; Assistant Secretary and Commissioner of Patents and Trademarks

EFFECTIVE DATE: February 28, 1983.

This Order effective February 28, 1983 supersedes the material appearing at 40 FR 16707 of April 14, 1975 and 45 FR 49311 of July 24, 1980.

Section 1. Purpose

.01 This Order prescribes the scope of authority and functions of the Assistant Secretary and Commissioner of Patents and Trademarks. [The functions of the Patent and Trademark Office are covered in DOO 30-3.)

.02 This revision reflects the fact that the Commissioner is now an Assistant Secretary of Commerce, and Congressional intent that the new Assistant Secretary play a key role in intellectual property issues confronting the nation.

Section 2. Status and Line of Authority

.01 The Patent and Trademark Office is hereby continued as a primary operating unit of the Department of Commerce. First established by the general revision of patent laws enacted by Congress July 4, 1836, (5 Stat. 117) as the Patent Office, an independent bureau under the direction of a Commissioner of Patents, it became a part of the Department of Commerce by Executive Order of April 1, 1925, in accordance with the authority contained in the Act of February 14, 1903 (32 Stat. 830). When the patent laws were codified as Title 35, United States Code, effective January 1, 1953, the Patent Office was continued as an office in the Department of Commerce. By Public Law 93-596, effective January 2, 1975, the name of the Patent Office was changed to "Patent and Trademark Office" and the Commissioner of Patents was designated as the "Commissioner of Patents and Trademarks." By Public Law 97-366 the Commissioner was given the title of Assistant Secretary of Commerce.

.02 The Assistant Secretary and Commissioner of Patents and Trademarks (hereinafter "the Assistant Secretary"), who is appointed by the President by and with the advice and consent of the Senate, shall be the head of the Patent and Trademark Office. The Assistant Secretary shall be principally assisted by a Deputy Assistant Secretary who shall also serve as Deputy Commissioner, five Assistant Commissioners, whose titles and status are specified below, and a Solicitor. As provided by 35 U.S.C. 3, the Deputy Commissioner and the first two Assistant Commissioners are appointed by the President by and with the advice and consent of the Senate.

a. The Deputy Assistant Secretary and Deputy Commissioner.

b. The Assistant Commissioner for Patents (an Assistant Commissioner under 35 U.S.C. 3).

c. The Assistant Commissioner for Trademarks (an Assistant Commissioner under 35 U.S.C. 3).

d. The Assistant Commissioner for Administration.

e. The Assistant Commissioner for Finance Planning.

f. The Assistant Commissioner for External Affairs.

.03 The Deputy Assistant Secretary or, in the event of a vacancy in that office, the Assistant Commissioner appointed under 35 U.S.C. 3 who is senior in date of appointment, shall act as Assistant Secretary during a vacancy in that office. In the absence of the Assistant Secretary the Deputy Assistant Secretary shall act as Assistant Secretary. If the Deputy Assistant Secretary is likewise absent or that office is vacant, one of the Assistant Commissioners or the Solicitor of the Patent and Trademark Office shall act as Assistant Secretary in an order of precedence prescribed by the Assistant Secretary.

.04 The Assistant Secretary shall report and be responsible to the Secretary of Commerce.

Section 3. Delegation of Authority

.01 Pursuant to the authority vested in the Secretary of Commerce by 35 U.S.C. 3 and Reorganization Plan No. 5 of 1950, the functions of the Patent and Trademark Office and its officers specified in Title 35 of the U.S. Code, as amended, are hereby vested in the Secretary of Commerce and redelegated to the Assistant Secretary.

.02 Pursuant to the authority vested in the Secretary of Commerce by law, the Assistant Secretary is hereby delegated authority to perform the following functions vested in the Secretary of Commerce:

a. The functions in Title 15, Chapter 22 of the U.S Code, which pertain to trademarks;

b. The functions in Executive Order 10096 (except section 5) and Executive Order 10930, insofar as these functions relate to determining the ownership of patents and rights to inventions made by Government employees;

c. The functions in 42 U.S.C. 2181 and 2182, which pertain to inventions relating to atomic weapons, and in 42 U.S.C. 2457, which pertain to property rights in inventions made in performance of work under contract for the National Aeronautics and Space Administration;

d. Approve regulations for the conduct of proceedings in the Patent and Trademark Office, as provided in 35 U.S.C. 6(a); and

e. Such functions under other authorities of the Secretary of Commerce as are applicable to performing the functions assigned in this Order.

.03 Exercise of the authorities delegated in paragraphs .01 and .02 of this section shall be subject to such policies or directives as the Secretary of Commerce may prescribe.

.04 The Assistant Secretary may, except as precluded by law or regulation, redelegate the authorities in this section to employees of the Patent and Trademark Office subject to such conditions in the exercise of the delegated authorities as the Assistant Secretary may prescribe.

Section 4. Functions

The Assistant Secretary shall perform the following functions:

.01 Examine applications for patents to determine if they meet the requirements of law for the issuance of patents and, upon such determination, grant patents.

.02 Administer special laws and regulations as to secrecy of certain inventions, licenses for foreign filing, and those relating to atomic energy and space technology.

.03 Decide the ownership of patents and the rights to inventions made by Government employees, as provided by Executive Orders 10096 and 10930.

.04 Provide for the publication, storage, dissemination, and exchange of patents and related documentation.

.05 Maintain systems and facilities providing appropriate access to U.S. and foreign patents and other technical literature for use of the examiners and the public.

.06 Examine applications for the registration of trademarks to determine their entitlement to registration under the law; give public notice of trademarks allowed for registration and publish registered trademarks; maintain the Principal and Supplemental Registers of trademark registrations, and provide for public access to such registers and related trademark records.

.07 Issue patents and certificates of trademark registration.

.08 Reissue defective patents and issue certificates of correction of patents and trademark registrations.

.09 Maintain records as to proprietary interests in patents and trademark registrations and applications therefor.

.10 Carry on or authorize studies and programs, separately or in coordination with other United States, foreign, and international agencies, regarding domestic and international patent and trademark law.

.11 Serve as a Receiving Office, International Searching Authority, and Designated Office as necessary under the Patent Cooperation Treaty.

.12 Reexamine patents based on requests, filed by anyone, that raise a substantial new question of patentability.

.13 Serve as focal point within the Department and be prepared, when requested by appropriate authority, to serve as spokesperson for the Executive Branch for the broad range of intellectual property issues confronting the Nation, both domestically and in the international sphere.

.14 Perform other functions required, or which the Assistant Secretary deems necessary and proper, in exercising the authority delegated herein.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 83-8853 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-DK-M

[Dept. Organization Order 15-3; Transmittal 659]

Department Organization Order; Office of Public Affairs

Effective Date: January 27, 1983.

This Order effective Janaury 27, 1983 supersedes the materials appearing at 45 FR 69534 of October 21, 1980.

Section 1. Purpose

.01 This Order prescribes the functions, responsibilities, and organization of the Office of Public Affairs.

.02 This revision provides for a realignment of the Office's structure, including the establishment of the Public Liaison Division, abolishment of the Special Projects Division, and addition of photographic services; reflects the present responsibilities of the Director with respect to public affairs functions in the operating units; and generally updates the provisions of the Order.

Section 2. Status and Line of Authority

.01 The Office of Public Affairs, a Departmental office, shall be headed by the Director of Public Affairs who reports and is responsibile to the Secretary. The Director is the principal advisor to the Secretary on public affairs matters; is responsible for the overall public information program of the Department, including policy oversight of the public affairs staffs in the operating units; and serves as the primary liaison for the Department with other Government agencies on public affairs matters.

.02 The Director shall be assisted by a Deputy Director, who acts for the Director in the latter's absence.

Section 3. Functions

The Office of Public Affairs shall:

a. Plan, develop, and implement, in concert with the heads of the operating units, a Departmentwide public information program to support major Departmental priorities and meet the needs of individual operating units;

b. Prepare and issue press releases and broadcast material on matters involving the Secretary or Deputy Secretary, and other officials as appropriate;

c. Provide, or supervise the provision of, other public affairs services required by the Secretary, Deputy Secretary, and other officials of the Department, including the handling of news conferences, arranging for radio, television, and other interviews, and arranging personal appearances;

d. Review and approve for release all news items and related materials, speeches, publications, audiovisual materials for external use, and adverstising programs for public affairs purposes;

e. Maintain liaison with the White House Office of the Press Secretary and Office of Public Affairs, and with counterpart offices in other Government Agencies, to promote consistency and coordination between the Department's public information activities and those of the Executive Banch as a whole;

f. Provide liaison with outside public groups and organizations concerned with the Department's activities;

g. Advise and assist the Office of the Secretary and other offices as appropriate, by providing information, analysis, and news services concerning press and radio/TV coverage of Department activities;

h. Provide advice, assistance and support to the public information programs in the operating units;

i. Review periodically with operating unit heads and their senior public affairs officers the effectiveness of the units' public affairs programs relative to Departmental and operating units' priorities. Furnish results of these reviews to the Secretary;

j. Share with operating until heads the responsibility for preparing periodic performance evaluations on each operating unit's senior public affairs officer;

k. Provide advance consultation and clearance to the heads of operating units concerning the selection of persons to fill all positions at GS–13 or above in public affairs offices in the operating units. Also provide, in addition to the standard counterpart clearances provided by DAO 202–250, informal advance consultation and clearance on all significant personnel actions involving public affairs employees in the operating units at grade GS–9 or above; this encompasses hiring, promotions, and intra-Department transfers; and

l. Review, in accordance with DAO 205–12, Freedom of Information Act requests from the media and proposed responses. Review and evaluate all Freedom of Information Act appearls and the proposed reply to each, as also provided in DAO 205–12.

Section 4. Organization

.01 The *Office of the Director* shall include:

a. The Deputy Director of Public Affairs;

b. The Speechwriter for the Secretary and Deputy Secretary;

c. The Special Assistant; and

d. An Administrative Services Coordinator.

The Director, or a designee, shall provide direction and supervision to the Department's photographic staff.

.02 The *News Relations Division* is responsible for relationships with the media. The Division shall consist of:

a. A *News Room Branch* which is responsible for:

1. Providing liaison and assistance to representatives of the media on a day-to-day basis;

2. Preparing press releases, articles, and other materials on Department-level matters;

3. Reviewing and approving for issuance press releases from operating units;

4. Advising and assisting the public information staffs in the operating units in the preparation and distribution of releases and public information material; and

b. An *Audiovisual Branch* which is responsible for:

1. Developing and producng radio/TV news and features including the Department's Spotmaster service;

2. Advising and assisting Departmental offices and operating units in the use of the Department's radio/TV facilities;

3. Coordination and control of the technical and editorial quality of audiovisual materials produced by the Department, including the approval of proposed audiovisual productions;

4. Review and approval of requests for major audiovisual equipment for all Department elements, to insure quality, compatibility, and elimination of duplication;

5. Preparing guidelines for the development, production, procurement, and distribution of audiovisual materials, and assisting operating units with technical advice;

6. Considering exhibit events for joint participation by the Department's exhibiting units, and deciding purchases of exhibit materials for joint exhibits;

7. Maintaining an inventory of audiovisual equipment available within the Department, and providing suitable equipment and services for in-house meetings and conferences; and

8. Providing audiovisual services for the Secretary and Deputy Secretary, and other elements of the Office of the Secretary.

.03 The *Public Liaison Division* is responsible for relations with the public, and with non-business groups and organizations concerned with the work of the Department. The Division shall:

a. Maintain liaison with outside public groups and organizations;

b. Coordinate media interviews;

c. Evaluate the Secretary's senior staff's speech invitations, and operate a Speakers Bureau to provide, where appropriate, Department spokespersons to groups and organizations which request them;

d. Develop, implement, and administer the "Advance System" to provide for prior arrangments and necessary liaison for public appearances by the Secretary and Deputy Secretary, and other officials, as requested;

e. Coordinate program briefings to the Secretary and Deputy Secretary prior to their national and international appearances; develop briefing books in connection with news conferences and for official travel by the Secretary or Deputy Secretary; and provide these services for other officials, as requested;

f. Handle Presidental/Secretarial messages to organizations and individuals; and

g. Assign, edit, and arrange for publication of special articles and op-eds relating to the Department and Departmental issues;

h. Review all proposed Departmental publications with respect to policy and editorial content, purpose, and justification; and

i. Provide for internal communications through, but not limited to publication of the departmental employee newspaper.

Section 7. The Public Affairs Council

The Public Affairs Council, headed by the Director of Public Affairs, shall consist of the head of the public information function in each operating unit. The Council shall:

a. Serve as a mechanism for disseminating Department policy concerning public affairs matters;

b. Advise the Director with respect to public information problems and developments;

c. Coordinate, as directed by the Director, major public affairs projects

affecting more than one element of the Department; and

d. Represent the views of the heads of operating units in discussions with the Director.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 83-8854 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-DK-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of Korea

March 31, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton sweaters in Category 345, cotton nightwear in Category 351, other woven fabrics, wholly of continuous man-made fibers, in Category 612, and man-made fiber brassieres in Category 649, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1983 at respective levels of 53,519 dozen, 102,279 dozen, 88,087,749 square yards, and 464,998 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of Decembr 14, 1982, between the Governments of the United States and the Republic of Korea, the United States Government has decided to control imports of cotton and man-made fiber textile products in Categories 345, 351, 612 and 649, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1983, in addition to those categories previously designated.

EFFECTIVE DATE: April 6, 1983.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 30, 1982, there was published in the **Federal Register** (47 FR 58338) a letter dated December 23, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products produced or manufactured in the Republic of Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983 and extends through December 31, 1984. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton and man-made fiber textile products in Categories 345, 351, 612, and 649, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1983. Accordingly, in the letter pubished below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 345, 351, 612 and 649 in excess of the designated levels of restraint. The levels of restraint have not been adjusted to account for any imports after December 31, 1982. As the data become available, charges will be made to account for the period which began on January 1, 1983 and extends to the effective date of this action, as well as thereafter.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 31, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1982 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982, between the Governments of the United States and Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 6, 1983 and for the twelve-month period which began January 1, 1983 and extends through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 345, 351, 612, and 649, produced or manufactured in Korea and exported on or after January 1, 1983, in excess of the following levels of restraint:

Category	12-month level of restraint [1]
345	53,519 dozen.
351	102,279 dozen.
612	88,087,749 square yards.
649	464,998 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.

Textile products in Categories 345, 351, 612, and 649 which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in Categories 345, 351, 612, and 649 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of the Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-8851 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-25-M

Dropping the Import Control Established for Certain Man-Made Fiber Apparel Products From the Philippines

March 31, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Dropping the import control previously established for girls' and infants' man-made fiber underwear in Category 652 pt. (only T.S.U.S.A. Number 378.6030), produced or manufactured in the Philippines and exported during 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 F.R. 55709).

SUMMARY: A data investigation has determined that most of the trade in T.S.U.S.A. Number 378.6030 from the Philippines is not infants wear. A decision has been reached, therefore, to reassign that T.S.U.S.A. number to the limit covering man-made fiber underwear in Category 652, other than infants' underwear, and to drop the import control established on Category 652 pt. (T.S.U.S.A. number 378.6030).

EFFECTIVE DATE: April 6, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 29, 1982, there was published in the Federal Register (47 FR 57986) a letter dated December 22, 1982 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs which established levels of restraint for cotton, wool, and man-made fiber textile products in certain specified categories, including Category 652 pt., produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. In the letter published below the Chairman of the Committee for the Implementaiton of Textile Agreements amends the letter of December 22, 1982 to drop the control previously established for man-made fiber textile products in Category 652 pt.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

March 31, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 22, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the twelve-month period which began on January 1, 1983 of certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines.

Effective on April 6, 1983, you are directed to delete the level of restraint established in the directive of December 22, 1982 for man-made fiber textile products in Category 652 pt.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-8750 Filed 4-4-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 25, 1983.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel will meet at Langley AFB, Virginia, April 25–26, 1983. The purpose of the meeting will be to review TAF's role in providing tactical airpower for combined arms warfare. The meeting will convene at 1:00 p.m. and adjourn at 5:30 p.m. on the 25th and on the 26th will convene at 8:00 a.m. and adjourn at 12:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-8706 Filed 4-4-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Ad Hoc Committee to Assess Approaches to Space-Based Missile Warning Systems will hold a meeting on April 22, 1983 from 9:30 a.m. to 4:00 p.m. at the Pentagon, Washington, DC in Room 5D982.

The Group will receive classified briefings and hold classified discussions on current requirements, capabilities, advanced technologies and cost comparisons as related to potential space-based missile warning systems.

The meeting concerns matters listed in section 522(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly, the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-8704 Filed 4-4-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–436), announcement is made of the following committee meeting:

Name of committee: The National Board for the Promotion of Rifle Practice (NBPRP).

Date of meeting: 20 April 1983.

Place: Salon C, Twin Bridges Marriott Hotel, Washington, DC.

Time: 0900 Hours.

Proposed Agenda

1. Executive Officer Report.
2. Executive Committee Report.
3. Budget Report.
4. Appointment of Standing Committees.
5. Revision to Army Regulation 920–30.
6. Revision to Army Regulation 920–15.
7. Revised Curriculum for Small Arms Firing Schools.
8. Junior Teams in the National Matches.
9. Remote-Scoring Rifle Target Systems.
10. DCM Support for Biathlon.
11. Proposed National Trophy Team Award.
12. Program Objectives for the NBPRP.
13. Title 10, United States Code, Section 4307–4313.
14. Revision to Title 10, United States Code, Sections 4307–4313.

This meeting is open to the public.

Persons desiring to attend the meeting should contact the Office of the Director of Civilian Marksmanship (202) 272–0810 prior to 20 April 1983 to arrange admission.

Lawrence E. Enterkin,

LTC, USA (Ret), Assistant Executive Officer.

[FR Doc. 83-8883 Filed 4-4-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Hearing

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the Schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is

required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: April 23, 1983—Public Hearing—9:00 a.m.—4:30 p.m. Public Hearing will be held at the Bismarck Hotel, Maximilian Room 1, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202-245-2922).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

April 23, 1983, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on the American Asian & Pacific Bilingual Community:

(1) 1983 Reauthorization;

(2) Research;

(3) Reports of the Effectiveness of Bilingual Education; and

(4) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers.

Witnesses should notify Ramon Ruiz (see address above) of their intention of testifying.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;

(2) Witnesses shall limit their testimony to twenty minutes;

(3) All testimony shall be tape recorded;

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: March 24, 1983.

Jesse M. Soriano,

Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-8717 Filed 4-4-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Northville Industries Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") announces that it has adopted a Consent Order with Northville Industries Corporation as a final order of the Department.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadephia, Pennsylvania 19102 (215-597-2633).

SUPPLEMENTARY INFORMATION: On February 11, 1983, Vol. 48, No. 30, **Federal Register** 6389, the ERA published a notice in the **Federal Register** that on January 21, 1983 it had executed a Proposed Consent Order with Northville Industries Corporation ("Northville"), which would not become effective sooner than thirty (30) days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the Proposed Consent Order.

As the notice of February 11, 1983 stated, the remedial aspect of the Proposed Consent Order required Northville to refund an aggregate amount of $2,300,000: $200,000 to be paid to the United States Treasury, $319,498 to identified end-users, and $1,780,502 to identified resellers of No. 2 fuel oil. The Proposed Consent Order provided other pertinent details, including that identification of customers to receive refunds and the amount of the refund was subject to the approval of DOE. Those customers and amounts have been identified and approved by DOE.

Only five comments about the Proposed Consent Order were received: one claim from a Northville customer for refund and four comments on behalf of states (Maine, New York, Oregon and Vermont). (Comments received late have nevertheless been considered).

The comment from the State of Oregon did not criticize any aspect of the Proposed Consent Order except the form of relief. The comment suggested that consistent with the commentator's views expressed in other, supposedly similar, cases, the states should be the recipients of certain funds obtained by the Department of Energy in consent orders. While the states may be recipients of relief in appropriate cases such as when end-users cannot be identified, the comment made no indication of why this particular Proposed Consent Order was similar to any other case. Indeed, the Proposed Consent Order terms provided for identification of the particular eligible customers to receive refunds and the amount of refunds subject to DOE approval. As for the $200,000 amount of the refund going to the United States Treasury, that amount is less than 10% of the aggregate, and there is no indication of involvement by purchase of residual fuel from Northville by the State of Oregon or any end-user located in Oregon.

The comment by the State of New York agreed with the Proposed Consent Order provision for refunds to identified end-users, but requested clarification of the products involved and that the indentification and refund should not be entirely in Northville's discretion. As noted, that identification was subject to DOE approval, and the product involved was No. 2 fuel oil. Those eligible customers have been identified, and payment shall be made to them by Northville within thirty (30) days of this Notice (the effective date of the Consent Order).

The objections by the State of New York to the other two forms of refund in the Proposed Consent Order, payment to the United States Treasury and refund to identified resellers of No. 2 fuel oil, were quite the opposite of the State of Oregon: New York did not explicitly claim the states should receive the money but that an OHA Subpart V proceeding should be convened to identify meritorious claimants. As for the $200,000 refund to Treasury, DOE has determined that that amount is with respect to customers who could not be identified readily, even by an OHA Subpart V proceeding, and even if they were identified, the amount of the refund per customer would likely be less than the administrative cost of such proceeding. Similarly, with regard to eligible reseller customers, in lieu of a Subpart V proceeding DOE has already identified such reseller customers and the amounts they will receive. Such refunds will be by credit memoranda issued within thirty (30) days of this Notice (and if such credits are not utilized within one year, Northville must issue a check to the customer including interest as applicable).

The comments from the State of Maine and the State of Vermont essentially raised the same issues and

claimed the $200,000 on behalf of the states as has been addressed above. None of the four state comments identified what end-users were in their states or what portion, if any, each state should receive.

As noted, the fifth comment was merely a claim by an eligible (and now identified reseller customer) recipient of a refund.

The Proposed Consent Order is therefore made final and effective on the date of publication of this Notice.

Issued in Philadelphia, Pennsylvania on this 21st day of March, 1983.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 83-8712 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

Pittston Petroleum Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Consent Order and Opportunity for Comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Pittston Petroleum Inc. and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by May 5, 1983.

ADDRESS: Send comments to Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-4550.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On March 22, 1983, the ERA executed a proposed Consent Order with Pittston Petroleum Inc. ("Pittston") of Montvale, New Jersey. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

Pittston, with its home office located in Montvale, New Jersey, is a firm engaged in the sale of covered petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period January 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"). An audidt conducted by the ERA included a review of Pittston's records relating to compliance with the Federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (the audit period). In its audit the ERA reviewed Pittston's pricing and allocation policies and procedures and the manner in which Pittston applied the Federal petroleum price and allocation regulations. Pittston has cooperated with this audit. Pittston has made its books and records available to the auditors of the DOE and the auditors have examined and reviewed a substantial volume of such materials. DOE believes that Pittston has maintained procedures reasonably adapted to achieve compliance with the federal petroleum price and allocation regulations. DOE has found no evidence that Pittston has committed any willful or intentional violations of the federal petroleum price and allocation regulations for the period covered by this Consent Order.

The ERA and Pittston disagree in several respects concerning Pittston's compliance with the Federal petroleum price and allocation regulations during the audit period. Notwithstanding the ERA's view as to the proper application of the regulations to Pittston's activities, Pittston maintains that it has correctly construed and applied the regulations. The ERA and Pittston each believes that its respective positions on the legal issues underlying their disagreements are meritorious. However, both parties desire to resolve the issues raised by the audit without resort to complex, lengthy and expensive compliance actions and therefore have entered into this Consent Order. The ERA believes that the Consent Order is in public interest because it provides a satisfactory resolution of disputed issues and an appropriate conclusion of the Pittston audit.

The Consent Order addresses all aspects of Pittston's compliance with the Federal petroleum price and allocation regulations during the audit period and, except for those issues explicitly excluded, resolvs all issues concerning Pittston's compliance with the Federal petroleum price and allocation regulations during the audit period. In settlement of all disputes with the ERA concerning sales of covered petroleum products during the audit period, Pittston has agreed to refund an aggregate amount of $1,150,000. This $1,150,000 is to be paid to identified reseller contract customers of No. 2 heating oil. The Consent Order also provides details concerning records retention and procedures concerning enforcement of the provisions of the Consent Order.

The Consent Order does not constitute and admission by Pittston nor a finding by the ERA of any violation of the Federal petroleum price and allocation regulations. This notice merely summarizes the Consent Order, and neither limits nor modifies it in any way whatsoever. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

Upon full satisfaction of the terms and conditions of this Consent Order by Pittston, the DOE releases Pittston from any civil claims that the DOE may have arising out of the federal petroleum price and allocation regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Pittston Petroleum Inc. Consent Order." The ERA will consider all comments it receives by 4:30 PM, local time, on May 5, 1983. any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures at 10 CFR 205.9(f).

Issued in Philadelphia on the 23rd day of March, 1983.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, ERA.

[FR Doc. 83-8711 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-006; OFP Case No. 56372-9228-20-24]

Powerplant and Industrial Fuel Use; Acceptance of Petition for Exemption and Availability of Certification by the Procter and Gamble Manufacturing Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by The Procter and Gamble Manufacturing Company.

SUMMARY: On March 4, 1983, the Procter & Gamble Manufacturing Company (P&G), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). Title II of FUA prohibits both the use of petroleum and nutural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Final rules governing the cogeneration exemption were revised on June 25, 1982. (47 FR 29209 (July 6, 1982).)

P&G seeks exemption for a powerplant consisting of a 20 megawatt combustion turbine capable of using natural gas or No. 2 distillate oil to produce electricity and a heat recovery boiler equipped with a duct burner to generate process steam at P&G's Sacramento, California consumer and industrial products manufacturing facility. It is expected that all the net annual electric power generation of P&G's turbine generator will be sold to Pacific Gas & Electric Company (PG&E), making the cogeneration facility an electric powerplant pursuant to § 500.2 of the final rules.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination and is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedon of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 20, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Docket No. ERA-FC-83-006 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Anthony Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073C, Washington, D.C. 20585, Phone (202) 252-1730;

Allan Stein, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: P&G proposes to operate a cogeneration system at its Sacramento, California plant which will (1) generate electrical power for sale to PG&E, and (2) produce steam to meet the plant's process requirements. The proposed system will consist of a 20 megawatt aircraft derivative gas turbine/generator, together with a heat recovery boiler, which will utilize exhaust heat from the turbine to produce steam for use in the plant. The heat recovery boiler will be supplemented by a natural gas-fired duct burner with a rating of 40 mm Btu/hr., which will be used only when the plant steam demand exceeds the recoverable heat capacity of the turbine exhaust.

P&G expects to sell all the net annual electric power generation of the turbine generator to PG&E. The sale of in excess of 50 percent of the facility's net annual electric power generation causes it to be classified as an electric powerplant under FUA, subject to the Title II construction and fuel use prohibitions.

Section 212(c) of the Act and § 503.37 of the final rules provide for a permanent congeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1) of the final rules, P&G has certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with § 503.37(b) of the final rules; and

2. The use of a mixture of petroleum and natural gas and an alternate fuel in the cogeneration facility for which an exemption under § 503.38 of the final rules would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c), P&G has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under § 503.13 of the final rules.

The acceptance of the petition by ERA does not constitute a determination that P&G is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on March 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-8709 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-007; FC Case No. 55381-2900-01-12]

Powerplant and Industrial Fuel Use; Proposed Modification of an Order (granting Permanent Fuels Mixture Exemption to Republic Steel Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and proposed modification of an order granting permanent fuels mixture exemption to Republic Steel Corporation.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under 10 CFR Part 501, Subpart G to modify the permanent fuels mixture exemption granted by Order to a new major fuel burning installation (MFBI), owned and operated by Republic Steel Corporation (Republic) at its Warren Works Steel Plant, Warren, Ohio, under the Powerplant and

Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Based upon its review of Republic's March 13, 1983, modification request, ERA is proposing to modify the Order on the basis of its determination that significantly changed circumstances, as defined in 10 CFR 501.102(b), exist with respect to the applicability of the original exemption. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the **Federal Register** (see) DATE section, below). If no responses are received within the established period, the Order modification, as proposed, shall become final upon the expiration of that period without further action by ERA.

A detailed discussion of the Order and Republic's request for modification thereof is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATE: Written responses to ERA's proposed modification of the Republic Order must be received no later than May 5, 1983.

ADDRESS: Written responses are to be addresses to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585. FC–55381–2900–01–12, should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone (202) 252–8162

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone (202) 252–2967

SUPPLEMENTARY INFORMATION: On October 16, 1980, ERA exempted, by Order, Republic's new No. 3 high pressure boiler at its Warren Works Steel Plant from the prohibitions of section 202 of FUA, which prohibits the use of natural gas or petroleum as a primary energy source by certain MFBIs. The Order was published in the **Federal Register** on October 23, 1980 (45 FR 70305). Subject to the terms and conditions set forth in the Order, the permanent exemption permitted the use of a fuels mixture of blast furnace gas and/or coke oven gas and petroleum (No. 6 fuel oil) or natural gas, the latter in an amount not to exceed 25 percent of the total annual Btu heat input of the primary energy sources of the MFBI. Republic's exemption request was filed under the then effective section 505.28 of ERA's interim rule (44 FR 28530 and FR 28950 (May 17, 1979)) and was granted pursuant to section 212(d) of FUA.

By letter signed on March 13, 1983, Republic requested that ERA modify the Order to delete the following Term and Condition: "4. In accordance with the reporting requirement in § 505.38(d), Republic shall submit an annual report to the Economic Regulatory Administration (ERA), OFC Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, each year within 30 days after the anniversary of the date No. 3 HP Boiler is placed in service containing a certified statement identifying the actual quantities of blast furnace gas, coke oven gas, natural gas (in MCF), and petroleum (in barrels) used in the unit during the year, as well as the heating value (in Btu's) of each of those fuels. The following format for quantities shall be used:

Fuel type	Amount of fuel used (MCF or Bbls)	Btu equivalent	Percent of total Btu's heat input

Note. Cite OFC Case Number 55381–2900–01–12 on all reports.

The certification of fuel use must be executed by a duly authorized representative of Republic."

Republic based its request on the fact that since the issuance of the Order with its annual reporting requirement, DOE has issued final rules amending § 505.38(d) of the interim rule so as to delete therefrom reporting requirements for boilers granted fuel mixtures exemptions (46 FR 59872, December 7, 1981).

As requested, ERA has, pursuant to 10 CFR 501.101(a), commenced a proceeding to modify the above-described exemption Order. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G (46 FR 59872, December 7, 1981). Based upon the information contained in Republic's modification request and upon the record as a whole, ERA proposes:

(1) To find that the revision of § 505.38 in the final rules published on December 7, 1981, described *supra*, constitutes significantly changed circumstances that warrant a modification of the Order, as provided by 10 CFR 501.102(b); and

(2) To modify the Order to delete therefrom Term and Condition 4.

Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order exempting Republic's No. 3 high pressure boiler from the prohibitions in section 202 of FUA and of their right pursuant to 10 CFR 501.101(d) to file a reponse thereto within 30 days after the publication of this Notice in the **Federal Register**. If ERA receives no responses within the alloted period, the Order modification shall become final as proposed, without further ERA action, upon expiration of that period.

Issued in Washington, D.C. March 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–8710 Filed 4–4–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 5216–001]

Alyeska Hydro Co.; Surrender of Preliminary Permit

April 1, 1983.

Take notice that Alyeska Hydro Company (Alyeska), Permittee for The Alyeska Creek Project No. 5216, has requested that its preliminary permit for the subject project be terminated. The permit for Project No. 5216 was issued on May 19, 1982, and would have expired on May 31, 1984. The project would have been located on Alyeska Creek near Girdwood, Alaska.

Alyeska filed its request on January 10, 1983, and the surrender of the permit for Project No. 5216 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–8759 Filed 4–4–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2403–000]

Bangor Hydro Electric Co.; Expiration of License

April 1, 1983.

Take notice that the license for the Veazie Project No. 2403 will expire on December 31, 1987. The project is located on the Penobscot River in Penobscot County, Maine and is licensed to the Bangor Hydro Electric Co.

The principal project works currently licensed for Project No. 2403 are: a dam, two powerhouses containing a total of 17 generating units with a total installed

capacity of 8.4 MW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 719–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8760 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2727-000]

Bangor Hydro-Electric Co.; Expiration of License

March 31, 1983.

Take notice that the license for the Ellsworth Project No. 2727 will expire December 31, 1987. The project is located on Union River in Hancock County, Maine and is licensed to Bangor Hydro-Electric Company.

The principal project works currently licensed for Project No. 2727 are: two dams, two reservoirs, a powerhouse containing four generating units with an installed capacity of 8,900 kW and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-Federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[40 FR Doc. 83-8761 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2593-000]

Beaver Falls Power Co.; Expiration of License

March 31, 1983.

Take notice that the license for the Beaver Falls Project No. 2593 will expire December 31, 1987. The project is located on Beaver River in Lewis County, New York and is licensed to Beaver Falls Power Company.

The principal project works currently licensed for Project No. 2593 are: a dam, a powerhouse containing a single generating unit with an installed capacity of 1,500 kW and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the originial licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8762 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2644-000]

Bowersock Mills and Power Co.; Expiration of License

April 1, 1983.

Take notice that the license for the Kansas River Project No. 2644 will expire on December 31, 1987. The project is located on the Kansas River in Douglas County, Kansas and is licensed to Bowersock Mills and Power Company.

The principal project works currently licensed for Project No. 2644 are: an existing dam, a one and one-half mile long reservior, one powerhouse containing turbine generators with a total rated capacity of 1,850 kW and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8763 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2335-000]

Central Maine Power Co.; Expiration of License

April 1, 1983.

Take notice that the license for the Williams Project No. 2335 will expire on December 31, 1987. The project is located on the Kennebec River in Somerset County, Maine and is licensed to Central Maine Power Company.

The principal project works currently licensed for Project No. 2335 are: an existing dam, 426-acre reservior, one powerhouse containing turbine

generators with a total rated capacity of 13 NW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When a application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8784 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2527-000]

Central Maine Power Co.; Expiration of License

March 31, 1983.

Take notice that the license of the Skelton Project No. 2527 will expire December 31, 1987. The project is located on the Sacco River in York County, Maine and is licensed to Central Maine Power Company.

The principal project works currently licensed for Project No. 2527 are: an existing dam, a 488-acre reservoir, one powerhouse containing two turbine generators with a total rated capacity of 16.8 MW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comments, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8785 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2528-000]

Central Maine Power Co.; Expiration of License

March 31, 1983

Take notice that the license for the Cataract Project No. 2528 will expire on December 31, 1987. The project is located on the Saco River in York County, Maine and is licensed to Central Maine Power Company.

The principal project works currently licensed for Project No. 2528 are: an upper dam in two sections with a 259-acre reservoir, a lower dam in two sections with a 14-acre reservoir, a powerhouse at the lower dam containing turbine generators with a total rate capacity of 6,650 KW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a-825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8786 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2531-000]

Central Maine Power Co.; Expiration of License

March 31, 1983.

Take notice that the license for the West Buxton Project No. 2531 will expire on December 31, 1987. The project is located on the Saco River in York County, Maine and is licensed to the Central Maine Power Company.

The principal project works currently licensed for Project No. 2531 are: an existing dam; a 131 acre reservoir; an upper powerhouse containing turbine generators with a total rated capacity of 4,125 KW; a 241 foot conduit leading to a lower powerhouse containing turbine generators with a total rated capacity of 4,000 KW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8787 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2512-000]

Elkem Metals Co.; Expiration of License

March 31, 1983.

Take notice that the license for the Hawk's Nest-Glen Ferris Project No. 2512 will expire December 31, 1987. The project is located on the New and Kanawha Rivers in Fayette County, West Virginia, and is licensed to Elkem Metals Company.

The principal project works currently licensed for Project No. 2512 are: two storage dams, three powerhouses

containing 12 generating units with total installed capacity of 107.5 MW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8768 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2484-000]

Village of Gresham, Wisconsin; Expiration of License

April 1, 1983.

Take notice that the license for the Upper Gresham Dam Project No. 2484 will expire on December 31, 1987. The project is located on the Red River in Shawano County, Wisconsin and is licensed to the Village of Gresham, Wisconsin.

The principal project works currently licensed for Project No. 2484 are: an existing dam and reservoir, one powerhouse containing turbine generators with a total rated capacity of 275 kW and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8772 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2428-000]

J. P. Stevens and Co.; Expiration of License

April 1, 1983.

Take notice that the license for the Piedmont Project No. 2482 will expire on December 31, 1987. The project is located on the Saluda River in Anderson and Greenville Counties, South Carolina and is licensed to J. P. Stevens and Company.

The principal project works currently licensed for Project No. 2428 are: a dam, a powerhouse containing a single generating unit with an installed capacity of 1,000 kW, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 719–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8769 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2343-000]

Potomac Edison Co.; Expiration of License

March 31, 1983.

Take notice that the license for the Millville Hydro Station Project No. 2343 will expire on December 31, 1987. The project is located on the Shenandoah River in Jefferson County, West Virginia near the Town of Millville and is licensed to the Potomac Edison Company.

The principal project works currently licensed for Project No. 2343 are: one storage dam, a powerhouse containing three vertically driven generators rated at a total capacity of 2,840 kW, a substation and switchyard and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. §§ 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to interevene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8770 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-0-M

[Project No. 2457-000]

Public Service Company of New Hampshire; Expiration of License

April 1, 1983.

Take notice that the license for the Eastman Falls Project No. 2457 will expire on December 31, 1987. The project is located in Merrimack County, New Hampshire and is licensed to the Public Service Company of New Hampshire.

The principal project works currently licensed for Project No. 2457 are: an existing dam; a 467 acre reservoir; a powerhouse containing two turbine generators with a total rated capacity of 6.4 megawatts; and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8771 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1966-000]

Wisconsin Public Service Corp.; Expiration of License

March 31, 1983.

Take notice that the License for the Grandfather Falls Project No. 1966 will expire December 31, 1987. The project is located on Wisconsin River in Lincoln County, Wisconsin and is licensed to Wisconsin Public Service Corporation.

The principal project works currently licensed for Project No. 1966 are: a dam, two powerhouses containing a total installed capacity of 17,240 kW, a canal, pipelines, and appurtenant facilities.

This notice is issued pursuant to the regulations of the Federal Energy Regulatory Commission, 18 CFR 16.2 (1982). The Commission licenses non-federal water-power projects for periods up to 50 years pursuant to the Federal Power Act, 16 U.S.C. 791a–825r. When a license expires, the Commission may issue a new license to the original licensee or to a new licensee, or may recommend to Congress that the United States acquire the project.

Under the Commission's regulations, the current licensee must file its application for a new license from three to five years before the current license expires. Any other entity seeking the license must file an application in accordance with 18 CFR 16.3(b). When an application in is filed, notice will be published and interested persons will have a further opportunity to submit a competing application, file a protest or comment, seek to intervene, or recommend that the United States acquire the project.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8773 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of February 25 Through March 4, 1983

During the week of February 25 through March 4, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of February 25 through March 4, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 25, 1983	Atlantic Richfield Co., Washington, D.C.	HRX-0080	Supplemental Order. If granted: The Office of Special Counsel would be required to release certain documents claimed as privileged to Atlantic Richfield Company (Case No. DRO-0193).
Feb. 25, 1983	Gulf Oil Corp., Washington, D.C.	HRX-0081	Supplemental Order. If granted: The Office of Special Counsel would be required to release certain documents claimed as privileged to Gulf Oil Corporation (Case No. DRO-0194).
Feb. 25, 1983	Marathon Oil Co., Washington, D.C.	HRX-0082	Supplemental Order. If granted: The Office of Special Counsel would be required to release certain documents claimed as privileged to Marathon Oil Company. (Case No. DRO-0195).
Feb. 25, 1983	Louisiana Land & Exploration Co., Washington, D.C.	HRX-0083	Supplemental Order. If granted: The Office of Special Counsel would be required to release certain documents claimed as privileged to Louisiana Land and Exploration Company (Case No. DRO-0199).
Feb. 25, 1983	Texaco Inc., Washington, D.C.	HRX-0084	Supplemental Order. If granted: The Office of Special Counsel would be required to release certain documents claimed as privileged to Texaco Inc. (Case No. DRO-0199).
Feb. 25, 1983	T&M Petroleum Corp., Washington, D.C.	HRX-0115 and HRH-0115	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by T&M Petroleum Corporation to the Proposed Remedial Order (Case No. HRO-0101) issued to it on February 22, 1983.
Feb. 28, 1983	Physical Sciences, Inc., Andover, Massachusetts	HFA-0122	Appeal of An Information Request Denial. If granted: The January 28, 1983 Information Request Denial issued by the Office of Project Support and Control Division would be rescinded and Physical Sciences, Inc. would receive access to certain DOE information.
Mar. 2, 1983	Cities Services Co., Tulsa, Oklahoma	HER-0051	Request for Modification/Rescission. If granted: The January 4, 1983, Decision and Order issued to Energy Cooperatives, Inc. would be modified on the basis of information that Cities Service Company claims were withheld from the Office of Hearings and Appeals.
Mar. 19, 1983	Economic Regulatory Administration/Crown Central Petroleum Corp., Washington, D.C.	HRD-0116	Motion for Discovery. If granted: Discovery would be granted to the Economic Regulatory Administration in connection with the Statement of Objections submitted by Crown Central Petroleum Corporation in response to the proposed Remedial Order in Case No. HRO-0072.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of February 25 through March 4, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 19, 1983	341 Tract Unit of Citronelle Field, Washington, D.C.	HER-0050	Request for Modification/Rescission. If granted: The January 31, 1983, Decision and Order issued to the 341 Tract Unit of Citronelle Field (Case No. DEE-7746) would be modified regarding the terms of the exception relief granted.
Mar. 19, 1983	Gentry & Wagner, Knoxville, Tennessee	HFA-0123	Appeal of an Information Request Denial. If granted: The February 15, 1983, Information Request Denial issued by Oak Ridge Operations would be rescinded and Gentry and Wagner would receive access to the transcript of the hearing in the matter of James E. Young V. DOE.

REFUND APPLICATIONS RECEIVED

[Week of February 25 Through March 4, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Mar. 3, 1983	Charter Company/Moore Oil Company	RF23-5
Mar. 4, 1983	Charter Company/Cummings Oil Company	RF23-6
Feb. 28, 1983 to Mar. 19, 1983.	Amoco Refund Applications	RF21-3313 through RF21-3633

[FR Doc. 83-8718 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; U.S. and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-JA-327, to Kyoto University, Osaka, Japan, 260 grams of thorium-232, 1 gram of uranium-235, 0.05 grams of uranium-234, and 0.7 grams of uranium-233 to be used to study fission fragment mass yield and neutron cross sections.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 30, 1983.

For the Department of Energy.

George J. Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-8713 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-EU-763, to the Des Mines d/Uranium de Franceville, a subsidiary of Inmetal, of Paris, France, 684 grams of natural uranium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 30, 1983.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-8714 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; U.S. and Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-CA-333, to the Canadian Fisheries and Ocean, Freshwater Institute, Winnipeg, Canada, 26 grams of natural uranium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 30, 1983.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-8715 Filed 4-4-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-10-FRL 2339-2]

Air Quality; Issuance of PSD Permit to Northwest Alaskan Pipeline Co.

Notice is hereby given that on March 11, 1983, the Environmental Protection Agency (EPA) extended a Prevention of Significant Deterioration (PSD) permit issued to Northwest Alaskan Pipeline Company to construct seven compressor stations along the Alaska Natural Gas Transportation System. The extension allows the company three additional years to commence construction. 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.

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.

For Further Information Contact: Raymond Nye (206) 442-1272, FTS: 399-1272.

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: March 11, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-8748 Filed 4-4-83; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL 2338S]

Designation of Ambient Air Monitoring Equivalent Method for Lead

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7049, 41 FR 11255, 44 FR 47916), has designated another equivalent method for the determination of lead in suspended particulate matter collected from ambient air. The new designated method is:

EQL-0483-057, "Determination of Lead Concentration in Ambient Particulate Matter by Inductively Coupled Argon Plasma Optical Emission Specrometry."

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 48, January 14, 1983, page 1619.

This method has been tested by the applicant (State of Montana, Department of Health and Environmental Sciences) in accordance with the test procedures prescribed in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at EPA's Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina, and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act.

This method uses the sampling procedure specified in the reference method for the determination of lead in suspended particulate matter collected from ambient air (43 FR 46258). Lead in the particulate matter is solubilized by extraction with a mixture of nitric acid and hydrochloric acid, facilitated by heat and ultrasonication. The lead content of the sample is analyzed by inductively coupled argon plasma optical emission spectrometry using the 220.35 nm lead emission line and instrument conditions optimized by the user laboratory. A sample of the extract solution is nebulized to form an aerosol which is excited with high temperature argon gas produced by passage of argon through a powerful radio frequency field. Radiation emitted from the plasma enters a spectrometer where it is seperated into selected wavelengths and sensed by separate photomultiplier tubes for each element of interest. The luminous energy thus measured is converted to an output signal which can be related to the concentration of each element of interest in the sample. The analytical system is capable of rapid sequential multi-element determinations. Technical questions concerning the method should be directed to the State of Montana, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59620.

As a designated equivalent method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the procedures and specifications provided in the method description. States or other agencies using inductively coupled argon plasma optical emission spectrometry methods that employ procedures and specifications significantly different from those in this method must seek approval for their particular method under the provisions of Section 2.8 of Appendix C to 40 CFR Part 58 (Modifications of Methods by Users) or may seek designation of such methods as equivalent methods under the provisions of 40 CFR Part 53.

Additional information concerning this action may be obtained by writing to Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not a major regulation because it imposes no additional regulatory requirements, but instead announces the designation of an additional equivalent method that is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979) or other applications where use of a reference or equivalent method is required.

This notice was exempted by the Office of Management and Budget for review as required by Executive Order 12291.

Courtney Riordan.

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-8749 Filed 4-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

On March 28, 1983 the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Request for Approval of Proposed Amateur Radio Antenna and Notification of Action.
Form No.: FCC 854.
Action: New.
Respondents: Individuals whose proposed antennas exceed the maximum allowable standards.
Estimated Annual Burden: 250 Responses; 125 Hours.

Antenna data now collected on forms FCC 610 and 714 will be eliminated. Amateur radio operator will request and receive approval from the Field Operations Bureau only.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-8797 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Common Carrier Communications Subcommittee; Meeting

March 29, 1983.

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Common Carrier Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, April 19, 1983. The Subcommittee will meet in the Federal Communications Commission's Training Room 330 in the "Brown Building" at 1200–19th Street, NW., Washington, D.C. at 9:00 A.M.

Purpose: To consider emergency communications matters.

Agenda: As follows:

1. Opening remarks by Chairman.
2. Statement of the function and structure of NIAC.
3. Consideration of regulatory implications of the activities of the National Security Telecommunications Advisory Committee (NSTAC).
4. Establishment of an agenda and date for the next meeting of the Common Carrier Communications Subcommittee.
5. Other business.
6. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-8796 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Wednesday, April 20, 1983 at 10 a.m. in the McCollough Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the April 20, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841–0500.

William J. Tricarico,

Secretary, Federal Communication Commissions.

[FR Doc. 83-8793 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Steering Committee; Meeting

Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee sheduled to meet on Wednesday, April 27, 1983. The meeting will be held at 9:30 a.m. in Conference Room 918 at AT&T located at 1120 20th Street, NW., Washington, D.C. and will be open to the public.

The agenda is as follows:

I. Review of Minutes of Previous Meeting.
II. General Administrative Matters.
III. Plant Account Model.
IV. Consideration of Account Proposals.
V. Other Business.
VI. Presentation of Oral Statements.
VII. Adjournment.

With prior approval of the Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy Group Vice-Chairman (202/634–1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-8792 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee. The meeting is scheduled for Thursday, April 28, 1983, at 10:00 a.m. in Room 330 of the Commission's offices at 1200 10th Street NW., Washington, D.C. and Friday, April 29, 1983, at 9:00 a.m. in the Commission Meeting Room (856) located at 1919 M Street NW., Washington, D.C. The meetings will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it Applies to USOA
III. Continued Analysis of Impact of ERTA of 1981 on Regulated Industries
IV. Further Assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral persentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–

1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-8794 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-284 et al.; File Nos. BPCT-820930KH et al.]

Beacon Broadcasting, Inc., et al.; Hearing Designation Order

In re applications of: Beacon Broadcasting, Inc., Ft. Walton Beach, Florida; MM Docket No. 83-284, File No. BPCT-820930KH; Hilton Organizations, Inc., Ft. Walton Beach, Florida; MM Docket No. 83-285, File No. BPCT-821105KH; Miracle Broadcasting, Ltd., Ft. Walton Beach, Florida; MM Docket No. 83-286, File No. BPCT-821126KH; For Construction Permit; Designation of applications for consolidated hearing on stated issues.

Adopted: March 21, 1983.

Released: March 29, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 35, Ft. Walton Beach, Florida.

Beacon Broadcasting, Inc. (Beacon)

2. Beacon did not complete Section III, FCC Form 301, in that only one of the questions regarding certification was answered. Beacon has not, therefore, demonstrated its financial qualifications to construct the proposed station. Accordingly, Beacon will be given 30 days from the date of the release of this Order to submit to the Administrative Law Judge the certification required by the Form or to advise that it cannot make the certification. In the latter event, the Administrative Law Judge shall specify an issue.

Hilton Organizations, Inc. (Hilton)

3. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained. A negative response to this question requires a full explanation. Hilton answered "no" to Item 10; however, it did not submit the required explanation. Hilton will be required to submit its explanation to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

Miracle Broadcasting, Ltd. (Miracle)

4. No determination has been made that the tower height and location proposed by Miracle would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Miracle Broadcasting whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered,* That Beacon Broadcasting, Inc. shall, within 30 days after this Order is released, submit a financial certification as required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the required certification cannot be made.

8. *It is further ordered,* That Hilton Organizations, Inc. shall submit its explanation for answering "no" to Section II, Item 10, FCC Form 301, January 1982, to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

9. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 1.

10. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-8795 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-289 and 83-290; File Nos. 50048-CM-P-74 and 50168-CM-P-74]

Digital Paging Systems, Inc., and KC Corp.; Hearing Designation Order

In re applications of Digital Paging Systems, Inc.; CC Docket No. 83-289, File No. 50048-CM-P-74; and KC Corporation; CC Docket No. 83-290, File No. 50168-CM-P-74; for Construction Permits in the Multipoint Distribution Service for a New Station at Louisville, Kentucky; Memorandum Opinion and Order designating applications for consolidated hearing on stated issues.

Adopted March 21, 1983.

Released March 29, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] [2] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Louisville, Kentucky. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for

[1] An amendment to application File No. 50168-CM-P-74 was filed on May 23, 1977 to change applicant's name from Howard S. Klotz and William Corbus to KC Corporation, (as a result in minor adjustments) from individuals to corporation. The same principals own KC Corporation in equal shares.

additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, *it is hereby ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing*, in a *consolidated proceeding*, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent chanel use in the same city;

(b) the anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered*, That Digital Paging Systems, Inc., KC Corporation and the Chief, Common Carrier Bureau, *are made parties* to this proceeding.

5. *It is further ordered*, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. *It is further ordered*, That any authorization granted to Digital Paging Systems, Inc., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those sections. See also Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-8788 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-287 and 83-288; File Nos. BPH-810828AF and BPH-820412AS]

Fox Broadcasters, Inc. and Hill County Broadcasters; Hearing Designation Order

In re Applications of: Fox Broadcasters Inc., Llano, Texas; Req: 104.9 MHz, Channel No. 285A, 3.0 kW (H&V), 155.5 ft.; MM Docket No. 83-287, File No. BPH-810828AF; William E. Hobbs & Vernon Beck d/b/a Hill County Broadcasters, Llamo, Texas; Req: 104.9 MHz, Channel No. 285A, 3.0 kW (H&V), 80 feet; MM Docket No. 83-288, File No. BPH-820412AS; for Construction Permit for a New FM Station; designation of applications for consolidated hearing on stated issues.

Adopted: March 18, 1983.

Released: March 29, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Fox Broadcasters, Inc. (Fox) and William E. Hobbs & Vernon Beck d/b/a Hill County Broadcasters (Hill).

2. *Hill.* Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause may be located outside that community. Hill proposes to locate its main studio at its transmitter site, less than a mile east of Llano, Texas on Highway 29. The applicant alleges that it would be conomically efficient to co-locate its studio and transmitter. We also note that the studio will be accessible from Llano, via Highway 29. Under these circumstances, we believe that good cause has been provided for the proposed studio location.

3. Hill has filed an amendment with the Commission on November 30, 1982. The last day for filing amendments as a matter of right was September 15, 1982. Under Section 1.65 of the Commission's Rules, the amendment will be accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. *Cypress Communications, Inc.*, 47 RR 2d 132 (1980). Therefore, any comparative advantage resulting from Hill's amendment will be disallowed.

4. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

6. Accordingly, *it is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, should be granted.

7. *It is further ordered*, That the amendment filed by Hill *is accepted*, but that no improvement in Hill's comparative standing will be allowed.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. *it is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the

[3] VideOhio, Inc.'s application File No. 50174-CM-P-74 was dismissed without prejudice by letter on December 20, 1982, pursuant to Section 21.28(c) of the Commission's Rules.

[4] This finding is subject to paragraph 8, *infra*.

manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief Audio Services Division, Mass Media Bureau.

Appendix

10. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, *it is further ordered,* That the following issue is specified:

1. To determine whether threre is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Fox and Hill.

11. *It is further ordered,* That the Federal Aviation Administration *is made a party to* the proceeding.

[FR Doc. 83-8795 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-282 and 83-283; File Nos. BP-810320AA and BP-810710AE]

LDA Broadcasting, Inc. and Quetzal Bilingual Communications, Inc., Hearing Designation Order

In the matter of application of: LDA Broadcasting, Inc., Chula Vista, California; rq: 1040 kHz, 1 kW, DA-2, U; MM Docket No. 83-282, File No. BP-810320AA; Quetzal Bilingual Communications, Inc., San Diego, California; Req: 1040 kHz, 5 kW, 10 kW-LS, DA-2, U; MM Docket No. 83-283, File No. BP-810710AE; For Construction Permit; Designation of applications for consolidated hearing on Stated issues.

Adopted: March 18, 1983.

Released: March 29, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority has under consideration the above-captioned mutually exclusive applications of LDA Broadcasting, Inc., and Quetzal Bilingual Communications, Inc., for a new AM broadcast station.

2. *LDA Broadcasting, Inc.* This applicant filed amendments to its application on April 26, 1982, June 30, 1982, July 29, 1982, September 7,1982, September 24, 1982, and November 10, 1982. They were required to be filed pursuant to Section 1.65 of the Commission's Rules. The amendments report minor changes in the applicant's stockholders and its officers and directors; changes in business and financial interests of its principals are also reported. The amendments do not alter the compartative position of the applicant and will prejudice no other applicant. The amendments will be accepted.

3. *Quetzal Bilingual Communications, Inc.* This applicant proposes to operate with nightime power of 5 kilowatts. Sections 73.21(a)(2)(ii)(C) and 73.182(a)(2) establish a one-kilowatt nighttime power ceiling for Class II-B stations on 1-A clear channels in areas already well served such as San Diego, California. The applicant has a heavy burden to show the power it proposes is necessary to provide principal city service and will not impede the Commission's allocation objectives; it may meet the latter by showing either that the higher power would not preclude other possible co-channel unlimited-time Class II assignments or that the improved principal-city service entailed by the higher power clearly outweighs any potential service that might be precluded. It cannot be determined from the record if waiver of the rules is warranted, and an issue will be specified.

4. Section 73.24(j) of the Rules requires that the 5 mV/m contour (or at night, the interference-free contour if of higher value) encompass all residential areas of the designated community. Section 73.188(b)(2) requires the transmitter be located so as to provide a minimum field strength of 5 to 10 mV/m over the most distant residential sections of the community. The applicant's proposed daytime 5 mV/m contour and nightime 10 mV/m contour do not encompass the entire city of San Diego. Quetzal has requested a waiver of the rules. We cannot determine from the record if waiver of the rules is warranted. An appropriate issue will be specified.

5. The environmental narrative statement filed by Quetzal did not contain a statement as to the zoning classification of the site and whether the proposed construction has been a source of controversy in the community as required by Section 1.1311 (a)(3) and (4), of the Rules. It must file the required information.

6. The Quetzal application shows David Martinez is treasurer, director and 32% stockholder. Section II, question 17 to the applicant (FCC Form 301), which relates to other broadcast interests of applicants, shows only that David Martinez was a broadcast station employee from 1968 to 1978 and from 1970 to 1971. However an amendment to the application, filed November 5, 1981, on the "B" cut-off date, contains a statement by David Martinez. The statement is dated November 1, 1981 and reads, as follows:

I, David G. Martinez, had 15% interest in an AM 830 radio application. I was not aware that: 1) I could not have more than one AM application; and 2) I needed to list this interest in the Quetzal application for AM 1040.

I hereby notify all interested parties that I am dropping all interest in Oceanside Radio Inc. as an applicant for AM 830. Therefore, my radio interest will be with Quetzal Bilingual Communications application for AM 1040, exclusively.

Section 73.3514 of the Rules requires that each applicant must provide all the information called for by the form on which the application is required to be filed. Clearly, Quetzal did not report David G. Martinex' other ownership interests as required. [1] Appropriate issues will be specified.

7. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed.[2] However, since the propsals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Accordingly, *it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding,* at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances surrounding the failure of Quetzal to report the ownership interests of David Martinez on its application (FCC Form 301) and whether Quetzal violated Section 73.3514 of the Commission's Rules.

2. To determine, in light of the facts adduced pursuant to issue one (1), above, whether Quetzal misrepresented

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[1] Serious allegations concerning the failure to report Mr. Martinez's broadcast interests have been raised in the proceedings involving the Oceanside Radio, Inc. application for a proposed new AM broadcast facility (BP-801117AC). See *Hearing Designation Order,* Docket Nos. 83-248 through 83-256.

[2] Operation with the facilities specified herein is subject to modification suspension or termination without right to hearing if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

facts or concealed information from the Commission.

3. To determine, in light of the facts adduced pursuant to the foregoing issues, whether Quetzal possesses the basic or comparative qualifications to be licensee of the facilities sought here.

4. To determine, with respect to the Quetzal Bilingual Communications, Inc., nighttime proposal, whether circumstances exist which warrant waiver of Sections 73.21(a)(2)(ii)(C) and 73.182(a)(2) of the Commission's Rules.

5. To determine, with respect to the Quetzal proposal, whether circumstances exist which warrant waiver of Sections 73.24(j) and 73.188(b)(2) of the Commission's Rules.

6. To determine the areas and populations which would receive primary service for each proposal, and the availability of other primary aural services to such areas and populations.

7. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

8. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

8a. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. *It is further ordered,* That Quetzal Bilingual Communications, Inc., shall file the environmental narrative statement information discussed in paragraph five (5), above, with the Administrative Law Judge within 30 days of the release of this Order.

10. *It is further ordered,* That the amendments filed by LDA Broadcasting, Inc., *are accepted.*

11. *It is further ordered,* That to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this Order.

12. *It is further ordered,* That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the Rule, and shall advise the Commission of the publication of the notices as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-8799 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-297 et al.; File No. 1342-CM-P-80 et al.]

Tekkom, Inc. et al; Hearing Designation Order

In the matter of applications of; Tekkom, Inc.; CC Docket No. 83-297, File No. 1342-CM-P-80; Telecommunications Systems, Inc.; CC Docket No. 83-298, File No. 4593-CM-P-80; and Microband Corporation of America; CC Docket No. 83-299, File No. 4596-CM-P-80; For Construction Permits in the Multipoint Distribution Service for a New Station at Fort Collins, Colorado; and Telstar Communications, Inc.; CC Docket No. 83-300, File No. 4595-CM-P-80; For Construction Permit in the Multipoint Distribution Service for a New station at Greeley, Colorado; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues.

Adopted March 22, 1983.

Released March 28, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Fort Collins/Greeley, Colorado. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly *it is hereby ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing,* in a *consolidated proceeding,* at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered,* That Tekkom, Inc., Telecommunications Systems, Inc., Microband Corporation of America, Telstar Communications, Inc. and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. *It is further ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commisison's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-8798 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-295 and 83-296; File Nos. 50084-CM-P-82 and 50085-CM-P-82]

Tekkom, Inc. and Richard E. Vail; Hearing Designation Order

In re Applications of: Tekkom, Inc.; CC Docket No. 83-295, File No. 50084-CM-P-82; and Richard E. Vail; CC Docket No. 83-296, File No. 50085-CM-P-82; For Construction Permits in the Multipoint Distribution Service for a New Station at Casper, Wyoming; Memorandum Opinion and Order designating

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS,* 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 25, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, CFR 47 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

applications for consolidated hearing on stated issues.

Adopted: March 22, 1983.

Released: March 28, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Casper, Wyoming. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, *it is hereby ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing,* in a *consolidated proceeding,* at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered,* That Tekkom, Inc., Richard E. Vail and the Chief, Common Carrier Bureau, *are made parties* to this proceeding.

5. *It is further ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-8787 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

[CC Docket No. 83-291 and 83-292; File Nos. 50005-CM-P-81 and 50013-CM-P-81]

Microband Corp. of America and Telecommunications Systems, Inc.; Hearing Designation Order

In re applications of: MICROBAND CORPORATION OF AMERICA; CC Docket No. 83-291, File No. 50005-CM-P-81; and TELECOMMUNICATIONS SYSTEMS, INC.; CC Docket No. 83-292, File No. 50013-CM-P-81; For Construction Permits in the Multipoint Distribution Service for a New Station at Prescott, Arizona; Memorandum Opinion and Order designating applications for consolidated hearing on stated issues.

Adopted March 22, 1983.

Released March 28, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Prescott, Arizona. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, *it is hereby ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing,* in a *consolidated proceeding,* at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered,* That Microband Corporation of America, Telecommunications Systems, Inc. and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. *It is further ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-8791 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS,* 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 C.F.R. § 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

[CC Docket Nos. 83-293 and 83-294; File Nos. 50073-CM-P-82 and 50074-CM-P-82]

Richard E. Vail and Tekkom, Inc.; Hearing Designation Order

In the matter of applications of: Richard E. Vail; CC Docket No. 83-293, File No. 50073-CM-P-82; For Construction Permit in the Multipoint Distribution Service for a New Station at Rupert, Idaho; and Tekkom, Inc.; CC Docket No. 83-294, File No. 5074-CM-P-82; For Construction Permit in the Multipoint Distribution Service for a New Station at Burley, Idaho; Memorandum Opinion and Order Designating applications for consolidated hearing on stated issues.

Adopted March 22, 1983.

Released March 28, 1983.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These

applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Rupert/Burley, Idaho. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolodated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Richard E. Vail, Tekkom, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-8790 Filed 4-4-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4102.

Title: Crescent/Beaufort Joint Venture Agreement.

Parties: Crescent Wharf and Warehouse Company (Crescent)/ Beaufort Terminals, Inc. (Beaufort).

Synopsis: Agreement No. T- 4102 provides for the formation by Crescent and Beaufort of B-C Terminals, a joint venture at the Port of Los Angeles. The term of the agreement is for two years and the parties agree to share equally in all profits or losses.

Filing Party: Joseph N. Mirkovich, Esquire, Ackerman, Ling, Russell, Linsley & Mirkovich, 1000 Sumitomo Bank Building, 444 West Ocean Boulevard, Long Beach, California 90802.

Agreement No.: 57-119.

Title: Pacific Westbound Conference Agreement.

Parties: American President Lines, Ltd.; The East Asiatic Co., Inc.; Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Korea Marine Transport Co., Ltd.; A. P. Moller-Maersk Line; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; OOCL-SEAPAC Service; Sea-Land Service, Inc.; Showa Line, Ltd.; United States Lines, Inc.; Yamashita-Shinnihon Steamship Co., Ltd.; Zim Israel Navigation Co., Ltd.

Synopsis: The basic agreement would be amended to clarify and make explicit that truckers and motor carriers operating in association with member lines are subject to the Conference's neutral body policing authority.

Filing Party: Charles L. Coleman, III, Esq., Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 5600-45.

Title: Philippines/North America Conference.

Parties: American President Lines, Ltd.; Barber-Blue Sea Line J/S; Galleon Shipping Corporation; Hapag Lloyd A/S; Lykes Bros. Steamship Co., Inc.; Moller-Maersk Line; A.P. (J/S); and Sea-Land Service Inc.

Synopsis: The provisions of the basic agreement would be amended to reduce the current thirty (30) days' notice required for a member to take independent action to seven (7) days, for an interim period of one year.

Filing Party: David N. Dunn, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement No.: 10355-1.

Title: The Bank & Savill Line/Shipping Corporation of New Zealand Joint Service

Parties: The Bank & Savill Line Limited and The Shipping Corporation of New Zealand

Synopsis: Agreement No. 10355-1 modifies the basic agreement (1) to allow the Bank & Savill Line/SCNZ Joint Service to institute direct call service between Australia/New Zealand and ports on the East Coast of the United States, (2) to clarify the existing scope of the Joint Service's intermodal authority, and (3) to give greater flexibility in terms of the type of ships which the Joint Service may utilize in the U.S.—Australasian trades, while maintaining the same number of vessels as presently authorized and a TEU limit equivalent to that in the current agreement.

Filing Agent: Walter H. Lion, Esquire, Kirlin, Campbell & Keating, One Twenty Broadway, New York, New York 10271.

Agreement No.: 10402-1.

Title: The Bank & Savill Line/Shipping Corporation of New Zealand Joint Service.

Parties: The Bank & Savill Line Limited and The Shaw Savill & Albion Co. Limited

Synopsis: Agreement No. 10402–1 modifies the basic agreement in order to conform it to proposed Amendments of Agreement No. 10355, the Bank & Savill Line/Shipping Corporation of New Zealand Joint Service.

Filing Agent: Walter H. Lion, Esquire, Kirlin, Campbell & Keating, One Twenty Broadway, New York, New York 10271.

By Order of the Federal Maritime Commission.

Dated: March 31, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-8736 Filed 4-4-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; First Missouri Banks, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Missouri Banks, Inc.*, Manchester, Missouri; to acquire 50.2 percent of the voting shares or assets of Manufacturers Bancorp, Inc., St. Louis, Missouri. Comments on this application must be received not later than April 27, 1983.

Board of Governors of the Federal Reserve System, March 30, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-8734 Filed 4-4-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities; Citicorp, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (industrial bank, consumer finance and credit-related insurance activities; Oklahoma): To engage, through a *de novo* subsidiary, Citicorp Savings and Trust Company, in industrial bank activities, including the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and the account of others of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. These activities would be performed from offices of the subsidiary in Tulsa and Oklahoma City, Oklahoma, serving the State of Oklahoma. Credit-related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Savings and Trust Company. Comments on this application must be received not later than April 29, 1983.

2. *The Bank of New York Company, Inc.*, New York, New York (investment advisor; United States): To engage, through its *de novo* subsidiary Beacon Capital Management Company, Inc., New York, New York, In the following activities: acting as investment or financial advisor to the extent of providing portfolio investment advice to any other person and furnishing general economic information and advice, including general economic statistical forecasting services and industry studies. Such activities would be conducted at its main office located in New York, New York, with a primary service area of the United States. Comments on this application must be received not later than April 29, 1983.

Board of Governors of the Federal Reserve System, March 30, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-8735 Filed 4-4-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Commercial Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Commercial Bancshares, Incorporated,* Parkersburg, West Virginia; to become a bank holding company by acquiring at least 80 percent of the voting shares of the successor by merger to Commercial Banking and Trust Company, Parkersburg, West Virginia. Comments on this application must be received not later than April 27, 1983.

2. *First National Corporation,* Strasburg, Virginia; to become a bank holding company by acquiring 100 percent of the outstanding shares of the successor by merger to The First National Bank of Strasburg, Strasburg, Virginia. Comments on this application must be received not later than April 29, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens National Bancshares, Inc.,* Hammond, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank, Hammond, Louisiana. Comments on this application must be received not later than April 27, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gresham Bancshares, Inc.,* Gresham, Wisconsin; to become a bank holding company by acquiring 94 percent of the voting shares of State Bank, Gresham, Wisconsin. Comments on this application must be received not later than April 29, 1983.

2. *Terry Bancorporation,* Walford, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers Savings Bank, Walford, Iowa. Comments on this application must be received not later than April 29, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Financial Properties, Inc.,* Jacksonville, Arkansas; to become a bank holding company by acquiring at least 80 pecent of the voting shares of Citizens National Bank of Jacksonville, Jacksonville, Arkansas. Comments on this application must be received not later than April 29, 1983.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Elmore Bancshares, Inc.,* Elmore, Minnesota; to become a bank holding company by acquiring 91 percent of the voting shares of First National Bank of Elmore, Elmore, Minnesota. Comments on this application must be received not later than April 27, 1983.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Olympic National Bancorp,* Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of Olympic National Bank, Los Angeles, California. Comments on this application must be received not later than April 29, 1983.

Board of Governors of the Federal Reserve System, March 30, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-8733 Filed 4-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0031]

Regulatory Action Criteria for Aflatoxins in Foods; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of revised FDA Compliance Policy Guide 7120.26 that contains new methodologies for confirming the presence of aflatoxin B_1 in foods. Compliance Policy Guide 7120.26 will now require that the presence of aflatoxin B_1 in certain foods be confirmed by a negative ion chemical ionization mass spectrometry procedure instead of by the chicken embryo bioassay procedure.

ADDRESS: Requests for single copies of Compliance Policy Guide 7120.26 may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-245-3092.

SUPPLEMENTARY INFORMATION: FDA has insufficient analytical experience with certain foods to rely on the chemical derivative test alone to demonstrate the presence of aflatoxin B_1. The current Compliance Policy Guide 7120.26 requires confirmation of the presence of aflatoxin B_1 in those foods by means of a chicken embryo bioassay. Because the bioassay requires more than 3 calendar weeks for completion, any necessary compliance actions are delayed.

FDA has now developed a quick, reliable analytical procedure for confirming the presence of aflatoxin B_1 in foods. This procedure involves the use of negative ion chemical ionization mass spectrometry for confirmation of the presence of aflatoxin B_1, and permits confirmation of the toxin in a few hours. The procedure has been tested on a variety of food samples to validate its reliability in confirming the presence of aflatoxins, particularly aflatoxin B_1. The mass spectrometric procedure is more definitive than the bioassay procedure because a particular toxin such as aflatoxin B_1 can be readily identified. The chicken embryo bioassay test is a generic one only, the end point of which is the death of the chick embryo. The bioassay demonstrates the presence of a toxin but does not identify the toxic compound.

Because of the reliability and speed of the negative ion chemical ionization mass spectrometry method, FDA will begin using that method when it is necessary to confirm the presence of aflatoxin B_1 by a second test. FDA has revised Compliance Policy Guide 7120.26 to reflect this change.

Background data and information supporting the revision of this Guide are on file with the Dockets Management Branch (address above), along with a copy of FDA's Compliance Policy Guide 7120.26, and are available in that office for public examination between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of Compliance Policy Guide 7120.26 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch.

Dated: March 30, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-8707 Filed 4-4-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0316]

Reclassification of Electroconvulsive Therapy Device

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is publishing notice of its intent to initiate proceedings to reclassify the electroconvulsive therapy (ECT) device intended for treating severe depression and schizophrenia from class III (premarket approval) to class II (performance standards).

DATE: Comments by June 6, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert F. Munzner, National Center for Devices and Radiological Health (HFK-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7226.

SUPPLEMENTARY INFORMATION: On August 13, 1982, the American Psychiatric Association (APA), Washington, DC 20009, submitted to FDA under section 513(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(e)) a petition (82P-0316/F820007) to reclassify the ECT device from class III (premarket approval) to class II (performance standards). The petition was referred to the Neurological Device Section of the Respiratory and Nervous System Devices Panel (the Section) for its recommendation on the proposed change in classification. During an open meeting on November 4, 1982, the Section considered the petition and recommended that ECT devices be reclassified from class III to class II and that any change in classification not take effect until the effective date of a performance standard for the ECT device established under section 514 of the act (21 U.S.C. 360d).

FDA has completed its review of APA's petition and has considered the section recommendations regarding reclassification of the ECT device. FDA tentatively agrees with the Section recommendation that the ECT device be reclassified from class III to class II. Accordingly, under section 513(e) of the act and § 860.130(d) (21 CFR 860.130(d)) of the regulations governing reclassification under section 513(e), FDA is issuing this notice of intent to initiate a change in § 882.5940 (21 CFR 882.5940) of the regulation regarding the classification of the ECT device.

In its petition to reclassify the ECT device, APA asserts that ECT has been shown to be an effective treatment only for depression and schizophrenia, and that it appears to be effective for interrupting manic states. FDA is aware, however, that some manufacturers of ECT devices have included other indications for use in the device's labeling, for example, intractable insomnia or hypersomnia, certain chronic pain syndromes, and anorexia nervosa. FDA tentatively plans to initiate proceedings to reclassify the ECT device into class II only when indicated for treating severe depression and schizophrenia, because FDA believes that there is insufficient "valid scientific evidence" (see 21 CFR 860.7(c)) to show that ECT is safe and effective for other conditions. FDA intends to leave the ECT device in class III when it is indicated for use in conditions other than severe depression and schizophrenia. If manufacturers do not delete from the device's labeling the indications that remain in class III, FDA will initiate proceedings pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) to require that ECT devices labeled for those indications that remain in class III have approved applications for premarket approval.

FDA also is considering adopting the Section's recommendation that reclassification into class II not take effect until the effective date of a performance standard for the ECT device established under section 514 of the act. Under section 513(e) of the act and § 860.130(f) (21 CFR 860.130(f)), a regulation changing the classification of a device from class III to class II may provide that the classification change will not take effect until the effective date of a performance standard established for the device. FDA is requesting comments on whether the Section's recommendation regarding the effective date for reclassification should be adopted. Comments are to be submitted in accordance with the instructions below.

A copy of APA's petition, supporting exhibits, the transcript of the Section meeting, the summary minutes of the Section meeting, and the comments received on the petition are on file in the Dockets Management Branch under Docket Number 82P-0316, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

FDA invites public comment regarding any impact that reclassification of the electroconvulsive therapy device intended for treating severe depression and schizophrenia would have on manufacturers, distributors, or licensed practitioners, on the costs or prices paid by consumers, on governmental agencies or geographic regions, on whether the rulemaking would have significant or adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Data and information supporting any such comments would be helpful. Comments are to be submitted to the Dockets Management Branch (address above). Two copies are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The agency will address the requirements of the Regulatory Flexibility Act and Executive Order 12291 when any proposal based on this notice of intent is published in the **Federal Register.**

Dated: March 24, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-8585 Filed 4-4-83; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Notice is hereby given, pursuant to Public Law 92-463, of the meeting of the Advisory Board on Child Abuse and Neglect, April 21, 1983, Hubert H. Humphrey Building, Washington, D.C., Room 337A, beginning at 9:30 a.m.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

At this meeting, the Advisory Board will discuss the Annual Report to the Secretary; a request from the United Nations about information on "Abuses against women and children"; and status of the reauthorization of the Child Abuse and Neglect Legislation.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 2008E,

Donohoe Building, P.O. Box 1182, Washington, D.C. 20013. Telephone number is (202) 245–2840.

Advisory Board meetings are open for public observation.

Dated: March 31, 1983.

Mamie J. Welborne,

HDS Committee Management Officer.

[FR Doc. 83-8868 Filed 4-4-83; 8:45 am]

BILLING CODE 4130-01-M

Social Security Administration

Antigua and Barbuda; Finding Regarding Foreign Social Insurance or Pension System

AGENCY: Social Security Administration, HHS.

ACTION: Notice of finding regarding foreign social insurance or pension system—Antigua and Barbuda.

Finding: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly Social Security benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for six consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director, Office of International Policy. Under that authority the Director, Office of International Policy, has approved a finding that Antigua and Barbuda, beginning November 1, 1981, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits U.S. citizens who are not citizens of Antigua and Barbuda to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Antigua and Barbuda.

Accordingly, it is hereby determined and found that Antigua and Barbuda has in effect, beginning November 1, 1981, a social insurance system which meets the requirements of Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

FOR FURTHER INFORMATION CONTACT: Roy G. Hatch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6122.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13,805 Social Security—Survivors Insurance)

Dated: March 24, 1983.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 83-8719 Filed 4-4-83; 8:45 am]

BILLING CODE 4190-11-M

Belize; Finding Regarding Foreign Social Insurance or Pension System

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—Belize.

Finding

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly Social Security benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for six consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402 (t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director, Office of International Policy. Under that authority the Director, Office of International Policy, has approved a finding that Belize, effective with the date of its independence, September 22, 1981, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old-age, retirement, or death; and

(b) Permits U.S. citizens who are not citizens of Belize to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Belize.

Accordingly, it is hereby determined and found that Belize has in effect, beginning September 22, 1981, a social insurance system which meets the requirements of Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

FOR FURTHER INFORMATION CONTACT: Roy G. Hatch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6122.

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Dated: March 24, 1983.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 83-8718 Filed 4-4-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Walker River Indian Irrigation Project

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Walker River Indian Irrigation

Project, to properly reflect the actual costs for labor, materials, equipment, and services. The change is from $7.00 to $11.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and from $1.00 to $5.50 per irrigable acre for Indian owned land farmed and operated by Indians.

EFFECTIVE DATE: This notice will become effective on date of publication of this document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert L. Hunter, Superintendent, Western Nevada Agency, 5533 Mark Twain Avenue, Carson City, Nevada 89701, telephone number (702) 882–3411.

SUPPLEMENTARY INFORMATION: This notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3.

Current operation and maintenance expenses have continued to increase each year until costs now exceed revenue from current charges.

Meetings were held with the Tribal Council and water users and two committees of the Tribe. The above changes were presented and comments were heard and evaluated. It was decided that the above changes have to be made in order that the operation and maintenance of the Walker River Irrigation Project can be undertaken and water delivered to the water users.

The notice shall read as follows:

WALKER RIVER INDIAN IRRIGATION PROJECT

Annual Operation and Maintenance Charges

Annual Per Acre Assessment—The annual assessment against land to which water can be delivered under the Walker River Indian Irrigation Project in Nevada for operation and maintenance of the Project is hereby fixed at $11.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and $5.50 per irrigable acre for Indian owned land farmed and operated by Indians.

Payment—The annual operation and maintenance assessment shall be due and payable on April 1. The assessment shall continue in effect thereafter until further notice. Water will not be delivered to the land until the assessment has been paid or arrangements have been made under 25 CFR 171.17 Operation and Maintenance Charges.

Water Users Responsibility—The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the economical use of the irrigation water.

Distribution and Apportionment—All water of the project is deemed a common water supply in which all irrigable lands of the project are entitled to share equally and such water will be distributed to the lands of the project as equitably as physical conditions will permit.

James H. Stevens,

Area Director.

[FR Doc. 83-8738 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[F-14840-A]

Alaska Native Claims Selection; T/ihteet' Aii, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to T/ihteet' Aii, Inc. for approximately 106 acres. The lands involved are within:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 9 E.

Secs. 27 and 28, those lands formerly within airport lease F–21745. Containing approximately 106 acres.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Sand Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until May 5, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

T/ihteet' Aii, Inc., Birch Creek, via Fort Yukon, Alaska 99740

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

B. LaVelle Black,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-8819 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14989-B]

Alaska Native Claims Selection; Danzhit Hanlaii Corp. et al.

By decision dated March 23, 1982, certain lands in the vicinity of Circle were determined proper for village selection, and approved for interim conveyance to Danzhit Hanlaii Corporation, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, and published in the **Federal Register** (47 FR 12869–12871, March 25, 1982; corrected at 47 FR 16681, April 19, 1982).

Among other lands, the decision of March 23, 1982, approved for

conveyance sections 14, T. 11 N., R. 17 E., Fairbanks Meridian, excluding Native allotment F–13719. At the time the decision was issued, the Bureau's records indicated that two rights-of-way for Federal aid material sites, F–026299 and F–026324, were located within Native allotment F–13719. Because these material sites were located on land excluded from the lands approved for conveyance, they were not addressed in the decision.

Subsequent review of the material sites revealed inaccuracies in location. After the sites were surveyed by the State, corrected descriptions were submitted, which placed material site F–026299 in sections. 13 and 14, and material site F–026324 in section 14, T. 11 N., R. 17 E., Fairbanks Meridian. Both material sites are no longer within Native allotment F–13719.

In view of the foregoing, the decision dated March 23, 1983, is hereby modified to include items 7 and 8, under "The grant of the above-described lands shall be subject to:"

7. A right-of-way, F–026299, for a Federal aid material site, located in SW¼, section 13, and SE¼, section 14, T. 11 N., R. 17 E., Fairbanks Meridian (section. 17, Federal Aid Highway Act of November 9, 1921 (42 Stat. 216; 43 U.S.C. 18), as amended); and

8. A right-of-way, F–026324, for a Federal aid material site, located in SE¼, section 14, T. 11 N., R. 17 E., Fairbanks Meridian (section 17, Federal Aid Highway Act of November 9, 1921 (42 Stat. 216; 43 U.S.C. 18), as amended).

Except as herein modified, the decision of March 23, 1982, stands as written.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until May 5, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Danzhit Hanlaii Corporation, Circle, Alaska 99733.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510.

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

B. LaVelle Black,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-8820 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

[F–14925–A; F–14925–B]

Alaska Native Claims Selection; Dineega Corp.

On September 30, 1982, a Decision to Issue Conveyance (DIC) was issued to Dineega, Corporation and published in the **Federal Register**, Vol. 47, No. 191, on pages 43439 through 43441, October 1, 1982.

The navigability maps attached to the DIC of September 30, 1982, identified the navigable water bodies as recommended in the Alaska State Director (SD), BLM memorandum dated September 8, 1982, concerning final easements and navigability determinations for Dineega, Corporation in the Ruby area.

On December 20, 1982, an amendment to the SD memorandum was issued which contained an administrative redetermination of the Melozitna River. The Melozitna River and its interconnecting sloughs are now determined to be navigable from its confluence with the Yukon River in Sec. 29, T. 8 S., R. 17 E., Kateel River Meridian, through the selection area. This water body is identified on the attached navigability maps, the original of which will be found in easement case file F–14925–EE.

The DIC of September 30, 1982, approved for conveyance the surface estate of the bed of the Melozitna River to Dineega, Corporation and conveyance of the subsurface estate of the same land to Doyon, Limited. As this water body is now considered navigable, the submerged land beneath it is not public land and is not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)). Therefore, the DIC of September 30, 1982, is hereby modified to exclude the submerged land beneath the above-described water body from the approval for conveyance to Dineega, Corporation and Doyon, Limited. The acreage of the land will not be charged against the village corporation's entitlement.

The easement numbered EIN 6 C5 has been amended, due to this change in navigability, to read as follows:

(EIN 6 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 25, T. 7 S., R. 16 E., Kateel River Meridian, on the right bank of the Melozitna River. The uses allowed are those listed for a one (1) acre site.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the FAIRBANKS DAILY NEWS-MINER.

Except as modified by this decision, the decision of September 30, 1982, stands as written.

B. LaVelle Black,

Acting Chief, Branch of ANCSA Adjudication.

[Fr Doc. 83-8821 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52831]

Utah; Invitation To Participate in Coal Exploration Program; W.K. Minerals, Inc.

March 28, 1983.

W. K. Minerals, Inc., a subsidiary of Natomas Coal Company, is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Wasatch Plateau, approximately eleven miles northwest of Orangeville, Utah. The lands are located in Emery County, Utah and are described as follows:

T. 17 S., R. 6 E., SLM, Utah
Sec. 21, E½W½, E½;
Sec. 22, all;
Sec. 23, all;
Sec. 24, W½W½;
Sec. 25, N½NW¼;
Sec. 26, W½, N½NE¼, W½SW¼NE¼, W½W½SE¼;
Sec. 27, all;
Sec. 28, all;
Sec. 29, E½SE¼;
Sec. 32, E½;
Sec. 33, all;
Sec. 34, all;
Sec. 35, lots 3, 4, W½SW¼NE¼, W½W½ S E¼, SW¼, S½NW¼.
T. 18 S., R. 6 E., SLM, Utah
Sec. 1, lots 1–8, S½N½;
Sec. 2, lots 1–8, S½N½;
Sec. 3, Lots 1, 2, and 8.
T. 18 S., R. 7 E., SLM, Utah
Sec. 6, lots 4–7, W½SE¼SW¼, W½E½SW¼.
Containing 6,950.61 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 and to John Schocke, Vice President, W.K. Minerals, Inc., 5970 South Syracuse Street, Suite 124, Englewood, Colorado 80111. Such written notice must be received with 30 days after the publication in the **Federal Register.**

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by W.K. Minerals, Inc. is available for public review during normal business hours, in the following office, under Serial Number U–52831: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,
Deputy State Director for Operations.

[FR Doc. 83-8755 Filed 4-4-83; 8:45 am]
BILLING CODE 4310-84-M

[AR 032636]

Proposed Modification of Withdrawal and Opportunity for Public Hearing; Arizona

March 25, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to modify the withdrawal made by Public Land Order 3305 of January 13, 1964, which withdrew the following described public land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 2 E.,
Sec. 28, S½NW¼ and N½SW¼.
The area described aggregates 160 acres in Maricopa County.

The purpose of the withdrawal is for use by the Federal Bureau of Investigation, Department of Justice, for establishment of a law enforcement training facility. The Bureau of Land Management proposes to modify the period of withdrawal from an indefinite period to a period of 20 years, to modify the segregative effect by opening the lands to mineral leasing under the mineral leasing laws, to modify the use to include construction and maintenance of a Federal Correctional Institution on approximately 103 acres of the site by the Bureau of Prisons, and to permit the filing of applications for temporary land uses, licenses, permits and cooperative agreements on the subject land.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal modification. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before June 27, 1983. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objection to the proposed modification may be filed with the undersigned officer on or before June 27, 1983.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. The authorized Officer will review the withdrawal rejustification to ensure that the modification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized Officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the withdrawal will be modified and if so, for how long. The final determination on the modification of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed modification should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona, 85073.

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-8754 Filed 4-4-83; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Public Hearing; Application for Public Land Withdrawal

March 28, 1983.

Notice is hereby given that public hearings will be held on Wednesday, May 4, 1983 and on Thursday, May 5, 1983 for the purpose of obtaining public testimony on an application for public land withdrawal. The hearings will be held as follows:

Wednesday, May 4, 1983—Alburquerque Convention Center, 2nd and Tijeras, Albuquerque, New Mexico, beginning at 1:00 PM.

Thursday, May 5, 1983—Roadway Inn, South National Park Highwey, Carlsbad, New Mexico, beginning at 9:00 AM.

On January 17, 1983, the U.S. Department of Energy filed application number NM 55234 to withdraw approximately 8,960 acres of public land from settlement, sale, location or entry under the general land laws, including the Mining and Mineral Leasing Laws and the Geothermal Stream Act of 1970.

It was published in the Federal Register on January 27, 1983. the lands are described as follows:

New Mexcio Principal Meridian, New Mexico

T. 22 S., R. 31 E.,
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 32;
Sec. 33;
Sec. 34.

The area described contains approximately 8,960 acres of public land and 1,280 acres of State owned land for a total of 10,240 acres, more or less, in Eddy County, New Mexcio.

The Department of Energy requests that this land be reserved for the use of the DOE for the purpose of constructing a research and development facility (the Waste Isolation Pilot Plant—WIPP) to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States; however, no radioactive waste will be stored or disposed of under the terms of this withdrawal. The site is in Eddy County, New Mexcio, approximately 25 miles southeast of Carlsbad.

Persons who wish to comment on the proposed land withdrawal may do so by presenting public testimony at one of the above hearing sessions or they may submit their written comments for the record to the State Director, Bureau of Land Management, Santa Fe. Comments must be received by May 13, 1983, in order to be considered.

Persons who wish to testify at one of the hearing sessions should contact the State Director (912) at the address below and indicate the preferred time and place of their testimony. Every attempt will be made to schedule testimony so that all may be heard at the approximate time requested. Oral presentations will be limited to a 10 minute summation of key points. Complete written testimony may be made a part of the record at the hearings by submitting a copy to the legal reporter at the time of testimony.

Persons who do not make an advance request to present their testimony will be allowed to speak providing there is time remaining. These pesons must register at the beginning of each hearing period and will be placed within the schedule if time allows. Persons are urged to make advance registrations to speak.

The testimony taken must relate only to the withdrawal question as that is the issue to be decided by the bureau of Land Management. Comments on the feasibility of the nuclear program in general, or other issues outside of the responsibility of the BLM and the Department of the Interior will not be heard. The hearings will be conducted by an administrative law judge of the Department of the Interior and all comments both oral and written will be made a part of the record used to make the final decision on the withdrawal.

All requests for information or scheduling for this project should be addressed to the undersigned, bureau of Land Management, P.O. Box 1499, Santa Fe, New Mexico 87501.

Leroy C. Montoya,

Acting State Director.

[FR Doc 83-8763 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[N-37390]

Nevada; Order Providing for Opening of Land

March 24, 1983.

1. In a donation of land made under the Act of December 23, 1980 (94 Stat. 3381) the following land, including minerals, has been conveyed to the United States:

Mount Diablo Meridian, Nevada

T. 16 N., R. 18 E.,
Sec. 8, S½ (within) (Lot 12, Block P, Incline Village Unit No.)

Containing 0.24 acres in Washoe County, Nevada. The land is within the Toiyabe National Forest.

2. At 9:00 a.m., on May 5, 1983, the land described above shall be open to such forms of disposition as may by law be made of national forest lands.

3. Inquiries concerning the land should be addressed to the Supervisor, Lake Tahoe Management Unit, P.O. Box 8465, South Lake Tahoe, CA 95731.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-8756 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

[N-37875]

Nevada; Proposed Withdrawal and Reservation of Land

March 24, 1983.

The Department of the Navy, on March 2, 1983, filed application N-37875 for the withdrawal of the following described land subject to valid existing rights from settlement, sale, location, or entry under all of the general land laws, including the mining laws, but not the mineral leasing laws:

Mount Diablo Meridian, Nevada

T. 18 N., R. 29 E.
Sec. 9, SE¼;
Sec. 16, NE¼, N½SE¼.

The area described comprises approximately 400 acres in Churchill County, Nevada.

The applicant agency desires that the land be withdrawn and reserved for the following purposes: (a) Forty acres to be used for family housing for military personnel and their dependents, and (b) 360 acres to be used for a safety arc in connection with an explosive ordnance handling pad facility. The withdrawal is proposed for a period of 20 years.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the District Manager, Bureau of Land Management, 1050 E. William Street, Carson City, Nevada 89701.

This withdrawal will be authorized under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743, 43 U.S.C. 1701–1782).

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity will be given for a public hearing in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, on or before July 5, 1983. Upon determination by the State Director that a public hearing will be held, a notice will be published in the **Federal Register** and a newspaper in the general vicinity of the proposed land withdrawal giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their

resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the land for the purposes other than the applicant's and reaching agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2752).

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the District Manager, Bureau of Land Management, 1050 E. William Street, Carson City, Nevada 89701.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-8757 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 25, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 20, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Pulaski County

Little Rock, *MacArthur Park Historic District (Boundary Increase)*, 214 E. 14th St.

COLORADO

Chaffee County

Salida, *Manhattan Hotel*, 225 F St.

Denver County

Denver, *Rocky Mountain Hotel*, 2301 7th St.
Denver, *St. Joseph's Polish Roman Catholic Church*, 517 E. 46th Ave.
Denver, *Zeitz Buckhorn Exchange*, 1000 Osage St.

El Paso County

Colorado Springs, *Gliddings Building*, 101 N. Tejon St.

Garfield County

Battlement Mesa, *Battlement Mesa Schoolhouse*, 7201 300 Rd.

Mesa County

Clifton, *Kettle-Jens House*, 498 32nd Rd.

Pueblo County

Pueblo, *City Park Carousel*, City Park
Pueblo, *King, Dr. Alexander T., House and Carriage House*, 229 Quincy St. and 215 W. Routt Ave.

CONNECTICUT

New Haven County

New Haven, *Welch Training School*, 495 Congress Ave.

DELAWARE

Kent County

Leipsic, *Katherine M. Lee (schooner) (Leipsic and Little Creek MRA)*, Fox's Dock at Front and Lombard Sts.
Leipsic, *Laws, Alexander House (Leipsic and Little Creek MRA)*, Front and Walnut Sts.
Leipsic, *Maggie S. Myers (schooner) (Leipsic and Little Creek MRA)*, Killen's Dock at Front and Lombard Sts.
Leipsic, *McClary House (Leipsic and Little Creek MRA)*, Main and McClary Sts.
Leipsic, *Rawley House (Leipsic and Little Creek MRA)*, Main St.
Leipsic, *Reed House (Leipsic and Little Creek MRA)*, Lombard St.

GEORGIA

Bleckley County

Cochran, *Hillcrest*, 706 Beech St.

INDIANA

De Kalb County

Garrett vicinity, *Altona Baptist Church (Keyser -Township MRA)*, CR 48
Garrett vicinity, *Bevier, Samuel, House (Keyser Township MRA)*, CR 52 and CR 11
Garrett vicinity, *Bowman, Joseph, Farmhouse (Keyser Township MRA)*, CR 19 and CR 40
Garrett vicinity, *Breechbill-Davidson House (Keyser Township MRA)*, IN 8 and CR 7
Garrett vicinity, *Bretheren in Christ Church (Keyser Township MRA)*, CR 7
Garrett vicinity, *Clark, Orin, House (Keyser Township MRA)*, CR 48 and CR 3
Garrett vicinity, *De Kalb County Home and Barn (Keyser Township MRA)*, CR 40
Garrett vicinity, *DePew, Samuel, House (Keyser Township MRA)*, CR 40
Garrett vicinity, *Fountain, William, House (Keyser Township MRA)*, IN 8
Garrett vicinity, *Gump House (Keyser Township MRA)*, IN 8
Garrett vicinity, *Haag, J. H., House (Keyser Township MRA)*, CR 54
Garrett vicinity, *Kelham, Edward, House (Keyser Township MRA)*, CR 48
Garrett vicinity, *Keyser Township District School 5 (Keyser Township MRA)*, CR 54
Garrett vicinity, *Keyser Township School 8 (Keyser Township MRA)*, E. Quincy St.
Garrett vicinity, *Lehmback, Charles, Farmstead (Keyser Township MRA)*, CR 15
Garrett vicinity, *Rakestraw House (Keyser Township MRA)*, CR 19
Garrett vicinity, *Shull, Henry, Farmhouse Inn (Keyser Township MRA)*, CR 11-A
Garrett, *Garrett Historic District (Keyser Township MRA)*, Roughly bounded by Railroad, Britton, Warfield and Hamsher Sts., and 3rd Ave.
Garrett, *Peters, Henry, House (Keyser Township MRA)*, 201 N. 6th St.
Garrett, *Wilderson, John, House (Keyser Township MRA)*, 1349 S. Cowen St.

MARYLAND

Baltimore (Independent City)

Eutaw-Madison Apartment House Historic District, 2502 and 2525 Eutaw Pl., and 2601 Madison Ave.

MASSACHUSETTS

Hampden County

Hampden, *Burgess, Thornton W., House*, 789 Main St.

Norfolk County

Foxboro, *Foxboro Grange Hall*, 11-15 Bird St.
Foxboro, *Memorial Hall*, 22 South St.
Foxboro, *Pratt, Capt. Josiah, House*, 141 East St.

NEW MEXICO

Luna County

Deming, *Deming Armory*, 301 S. Silver Ave.

NEW YORK

Bronx County

New York, *48th Police Precinct Station*, 1925 Bathgate Ave.

OHIO

Brown County

Ripley, *Farmers Branch, State Bank of Ohio*, 14 Front St.

Butler County

Hamilton, *Rentschler House*, 643 Dayton St.

Cuyahoga County

Shaker Heights, *Commodore Apartment Building*, 15610 Van Aken Blvd.

Erie County

Sandusky, *Oakland Cemetery Chapel and Superintendent's House and Office*, 2917 Milan Rd.

Fulton County

Wauseon, *Clement, George S., House*, 137 Clinton St.

Lucas County

Toledo, *Riverview Apartments*, 1829–1837 Summit St.
Toledo, *Spitzer Building*, 514–526 Madison Ave.
Toledo, *St. Ann Roman Catholic Church Complex*, 1105 W. Bancroft and 1120 Horace Sts.

Montgomery County

Dayton, *St. Mary Roman Catholic Church*, 543 Xenia Ave.
Dayton, *Stengel, John S., House*, 325 W. 2nd St.

Muskingum County

New Concord, *Stormont, David, House*, 103 W. Main St.

Ottawa County

Port Clinton vicinity, *Catawba Island Wine Company*, 3845 Wine Cellar Rd.

Paulding County

Paulding, *Paulding County Carnegie Library*, 205 S. Main St.

Stark County

Canton, *Mellett-Canton Daily News Building*, 401 W. Tuscarawas St.

PENNSYLVANIA

Beaver County

New Brighton, *Merrick Art Gallery*, 5th Ave. and 11th St.

Crawford County

Springboro vicinity, *Shadeland*, N of Springboro on PA 18

Cumberland County

Mechanicsburg, *Irving Female College*, Filbert, Main, and Simpson Sts.
Mechanicsburg, *Mechanicsburg Commercial Historic District*, Main St. from Arch to High St.

Dauphin County

Harrisburg, *Midtown Harrisburg Historic District*, Roughly bounded by Susquehanna River, Forster, Verbeke, and 3rd Sts.

Franklin County

Lemasters vicinity, *Findlay Farm*, 6801 Findlay Rd.

Lancaster County

Columbia, *Columbia Historic District*, Roughly bounded by Susquehanna River, Union, Cedar, 4th, and 5th Sts., Chestnut to 9th St.
Maytown, *Grove Mansion*, 133 River Rd.

Northampton County

Easton, *Easton Historic District*, Roughly bounded by Riverside and Bushkill Drs., Ferry and 7th Sts.

Philadelphia County

Philadelphia, *Baptist Institute for Christian Workers*, 1425–1429 Snyder Ave.
Philadelphia, *Girard Group*, Delaware Ave. and Arch St.
Philadelphia, *Harrington Machine Shop*, 1640–1666 Callowhill St.
Philadelphia, *Hockley Row*, 237–241 S. 21st St., 2049 Locust St.
Philadelphia, *Poth and Schmidt Development Houses*, 3306–3316 Arch St.

York County

Dover, *Pettit's Ford*, 4400 Colonial Rd.

TENNESSEE

Hamblen County

Morristown, *U.S. Post Office*, 134 N. Henry St.

WISCONSIN

Dane County

Madison, *Stoner, Joseph J., House* (Proposed Move), 321 S. Hamilton St.

[FR Doc. 83-8823 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-70-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Amoco Production Co. (USA)

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1042, block 292, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-8744 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1528, Block 233, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-8745 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2595 and 2596, Blocks 243 and 244, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-8743 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
875	Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, ICC-BM-C-0037, (Pulp, paper and paper products)	2	3-25-83
876	Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, ICC-BM-C-0036, (Pulp, paper and paper products)	3	3-25-83
877	Oklahoma, Kansas and Texas Railroad Co., ICC-OKKT-C-0256, (Stone or rock)	1	3-25-83
878	Norfolk and Western Railway Co., ICC-NW-C-0043, Supplement 1, (Liquid corn syrup)	2	3-29-83
879	Seaboard System Railroad, Inc., ICC-SBD-C-0045, (Fertilizer)	3	3-25-83
880	Norfolk and Western Railway Co., ICC-NW-C-0003-A (Motor vehicles)	2	3-25-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

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

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-8560 Filed 4-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 328]

Rail Carriers; Investigation of Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission served a decision on April 1, 1983, that clarifies the antitrust status of shipper parties renegotiating the private tank car mileage allowance agreement in this proceeding. The decision includes a model agreement and by-laws which shipper owner and lessor parties to the proceeding may use to form one association to consider the issues involved in the proceeding. If shipper parties form such an association and submit the agreement and by-laws and a supporting statement to the Commission for approval under 49 U.S.C. 10706(a)(5)(A), the agreement and by-laws will receive expedited consideration.

DATES: Parties who wish to form the association must file the agreement and by-laws by April 21, 1983. Persons desiring to comment on the model agreement and by-laws must also file comments by April 21, 1983.

ADDRESS: An original and 15 copies of all comments should be sent to: Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision (including the model agreement and by-laws), contact T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or (800) 424–5403 (toll-free number).

Dated: March 29, 1982.

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

in the result. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-8747 Filed 4-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Partial Consent Decree in Action To Clean Up Hazardous Waste Disposal Site in Olney, Ill.; A&F Materials Co., Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 14, 1983, a proposed partial consent decree in *United States* v. *A & F Materials Company, Inc.*, Civil Action No. 80–4395, was lodged with the District Court for the Southern District of Illinois.

This action was originally filed on September 12, 1980, under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.* and the Clean Water Act, 33 U.S.C. 1251 *et seq.*, to abate conditions which may endanger public health, welfare, and the environment at two hazardous waste disposal sites in Southern Illinois, Greenup and Olney. The two sites were operated by A & F Materials Company. An amended complaint was filed contemporaneously with the lodging of the partial consent decree. The amended complaint adds as parties defendant to the action those companies which are alleged to be responsible for generating the wastes disposed of at the Olney and Greenup facilities. The amended complaint alleges causes of action under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*

The proposed partial consent decree commits the Aluminum Company of America ("ALCOA") to fund and assure cleanup of the Olney site. Alcoa has also agreed to reimburse the Hazardous Substances Trust Fund in the amount of $61,000 for cleanup already undertaken at the site. The United States has retained its rights to proceed against all responsible parties to secure cleanup of the Greenup facility. The proposed decree may be examined at the office of the United States Attorney for the Southern District of Illinois, Room 330, 750 Missouri Ave., East St. Louis, Illinois 62202; at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th and Pennsylvania Avenue, Washington, D.C. 20530. In requesting a copy please enclose a check in the amount of $2.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *A & F Materials Company, Inc.*, Civil Action No. 80–4395 (S.D. Ill.), D.J. Reference No. 90–7–1–140.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-8742 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action Under the Clean Water Act and RCRA To Require Defendant To Cease Illegal Discharges of Pollutants at Chemcentral/Detroit Corporation in Romulus, Michigan

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States of America* v. *CHEMCENTRAL/Detroit Corporation*, Civil No. 80–73730 was lodged with the United States District Court for the Eastern District of Michigan on March 25, 1983.

The proposed consent decree requires CHEMCENTRAL/Detroit Corporation to stop discharging pollutants from its Romulus, Michigan facility; undertake measures to abate and prevent contamination of soil, groundwater and surface water; and implement a program to restore the quality of groundwater, surface water, soils and sediments on an adjacent to the defendant's Romulus, Michigan facility.

The proposed consent decree may be examined at the office of the United States Attorney, 817 Federal Building, 231, W. Lafayette, Detroit, Michigan 48226; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Please forward a check in the amount of $4.00 ($.10 per page) for each copy requested.

The Department of Justice will receive written comment relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Tenth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America* v. *CHEMCENTRAL/Detroit Corporation*, D.J. Ref. 90–7–1–153.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-8741 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U S C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 21, 1983–March 25, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,662; Lukens Steel Co., Coatesville, PA

TA-W-13,657; Elkem Metals Co., Alloy, WV

TA-W-13,651; Latrobe Steel Co., Latrobe, PA

TA-W-13,638; Talon, Inc., Woodland, NC

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,693; Wilco U.S., Inc., Port Sanilac, MI

In the following case the investigation revealed that criterion (3) has not been met for the reason specified.

TA-W-13,711; Lerner Manufacturing, Inc., Melville, NY

Aggregate U.S. imports of plastic garment hangers are negligible.

Affirmative Determinations

TA-W-14,178; Colorado & Wyoming Railway Co., Middle Div., Pueblo, CO

A certification was issued in response to a petition received on November 22, 1982 covering all workers separated on or after November 18, 1981.

TA-W-14,200; Colorado & Wyoming Railway Co., Southern Div., Weston, CO

A certification was issued in response to a petition received on December 27, 1982 covering all workers separated on or after June 1, 1982.

TA-W-13,868; CF & I Steel Corp., Maxwell Mine, Weston, CO

A certification was issued in response to a petition received on October 19, 1982 covering all workers separated on or after October 13, 1981.

TA-W-13,869; CF & I Steel Corp., Allen Mine, Weston, CO

A certification was issued in response to a petition received on October 19, 1982 covering all workers separated on or after October 13, 1981.

TA-W-13,973; CF & I Steel Corp., Bokoshoe Mine, Bokoshe, OK

A certification was issued in response to a petition received on November 16, 1982 covering all workers separated on or after April 1, 1982.

TA-W-13,728; CF & I Steel Corp., Pueblo, CO

A certification was issued in response to a petition received on August 17, 1982 covering all workers engaged in employment related to the production of seamless pipe and tubing, steel rails, rolled products, wire and wire products, basic and semifinished steel, coke and coke chemcials.

TA-W-13,791; Refac Electronics Corp., Winsted, CT

A certification was issued in response to a petition received on September 13, 1982 covering all workers separated on or after August 1, 1982.

TA-W-13,673; Armco, Inc., Southwestern Steel Div., Houston Works, Houston, TX

A certification was issued in response to a petition received on July 23, 1982 covering all workers producing carbon and alloy steel plate, wide flange beams, and basic and semi-finished steel separated on or after July 20, 1981.

TA-W-13,731; Martha Manning Corp., Collinsville, IL

A certification was issued in response to a petition received on August 17, 1982 covering all workers separated on or after August 12, 1981.

TA-W-13,779; U.S. Steel Corp., Pittsburgh Works, Pittsburg, CA

A certification was issued in response to a petition received on September 9, 1982 covering all workers engaged in employment related to the petition of hot and cold rolled sheet, galvanized sheet or, wire and wire products separated on or after September 3, 1981.

TA-W-13,611; Tommies, Inc., Staunton, VA

A certification was issued in response to a petition received on June 24, 1982 covering all workers separated on or after August 29, 1981 and before July 15, 1982.

TA-W-13,400; Jones & Laughlin Steel Corp., Aliquippa Works, Aliquippa, PA

A certification was issued covering all workers of the firm engaged in employment related to the production of wire, wire rod and hot rolled bars who became totally or partially separated from employment on or after April 1, 1981 and all workers of the Aliquippa Works of the Jones & Laughlin Steel Corp., Aliquippa, PA engaged in employment related to the production of pipe and tubing, hot rolled sheet and skelp, basic steel and semi-finished steel (blooms, billets, slabs and tube rounds) who became totally or partially separated from employment on or after October 1, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that the aforementioned determination were issued during the period March 21, 1983–March 25, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-8824 Filed 4-4-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period; State of Arkansas

This notice announces the ending of the Extended Benefit Period in the State of Arkansas, effective on March 26, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Arkansas on October 3, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured

unemployment in the State for the period consisitng of the week ending on March 5, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on March 26, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on March 28, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-8825 Filed 4-4-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, and Human Services on matters relating to the administration of the Act.

The terms of 6 members of the 12 member committee will expire on June 30, 1983. Nominations will be accepted for the vacancies occurring in the following categories: one public representative, one management representative, one labor representative, one safety representative, and two health representatives.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Clarence Page, Division of Consumer Affairs, Occupatinal Safety and Health Administration, Room N-3635, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, no later than May 15, 1983.

Signed at Washington, D.C., this 30th day of March, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-8828 Filed 4-4-83; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Behavioral and Neural Sciences Subpanel for Psychobiology; Meeting

The Subpanel for Psychobiology will be meeting in Washington, D.C. on April 13–15, 1983. The meeting will be part open. The time for the open portion of this meeting is being changed from 12 noon to 2 p.m. on April 15 to 2–4 p.m. on April 15. There are no other changes in the agenda. For further information, please contact Dr. Fred Stollnitz, 357–7949.

The notice of this meeting was published in the **Federal Register** on Monday, March 28, 1983, page 12864, Vol. 48, No. 60.

Dated: March 31, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-8782 Filed 4-4-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Environmental Biology, Subpanel on Ecology; 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 Ecology of the Advisory Panel for Environmental Biology.

Date and Time: April 21 & 22, 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. Gary W. Barrett, Program Director, Ecology (202) 357–9734, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in ecology.

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.

Dated: March 31, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-8783 Filed 4-4-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular, and Molecular Biology, Subpanel on Biological Instrumentation; 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 Biological Instrumentation of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: Thursday, and Friday, April 21 and 22, 1983 from 9:00 a.m. to 5:00 p.m.

Place: Room 638, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Arthur Kowalsky, Program Director, Biological Instrumentation Program, Room 325E, Telephone: 202/357–7652–53

Purpose of Subpanel: To provide advice and recommendations concerning support for research instrumentation.

Agenda: To review and evaluate research proposals 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), Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such

determination by the Director, NSF, on July 6, 1979.

Dated: March 31, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-8784 Filed 4-4-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Electrical Systems; Meeting

The ACRS Subcommittee on Electrical Systems will hold a meeting on April 27, 1983 in Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will review the status of the NRC sponsored research and the status of the Generic Safety Issues relating to the electrical systems in nuclear plants. Notice of this meeting was published March 23, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, April 27, 1983

8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 31, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-8864 Filed 4-4-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management; Notice of Meeting

The ACRS Subcommittee on Waste Management will hold a meeting on April 21-23, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review and comment on the Department of Energy's Site Characterization Report for the Basalt Waste Isolation Project (Hanford). Notice of this meeting was published March 23, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, April 21, 1983

8:30 a.m. Until the Conclusion of Business

Friday, April 22, 1983

8:30 a.m. Until the Conclusion of Business

Saturday, April 23, 1983

8:30 a.m. Until the Conclusion of Business

Discussion of the topics noted above.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 31, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-8865 Filed 4-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341 OL]

Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of March 30, 1983, oral argument on the appeal of Intervenor Citizens for Employment and Energy from the October 29 initial decision of the Licensing Board will be heard at *2:00 p.m. on Wednesday, May 4, 1983,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: March 30, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-8866 Filed 4-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co. (Pilgrim Nuclear Power Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Boston Edison Company (the licensee) is the holder of Facility Operating License No. DPR-35 which authorizes the operation of the Pilgrim Nuclear Power Station (the facility) at steady-state power levels not in excess of 1998 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Plymouth County, Massachusetts.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letters dated April 16, and June 9, 1982; the licensee responded to Generic Letter 82-10 by letters dated June 8 and 9, 1982 and January 28, 1983. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to two items, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet-pumps. Of the ten items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eighteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to two items (II.E.4.2.7 and II.K.3.22); these items will be addressed in a separate action and are therefore not included in this Order. The staff's evaluation of the licensee's delays for the remaining two items is provided herein:

II.B.3 Post-Accident Sampling and
II.F.1(6) Post-Accident Monitoring System

In order to re-plan and integrate all construction activities in an effort to control the overall magnitude of these activities and provide adequate assurance for reducing potential safety hazards, modification work on these two items was stopped in March 1982. In view of the intense construction activity associated with ongoing modification work at the time, this suspension of activity was necessary to enable effective management and control of available resources and to assure improved control of these and other necessary safety-related modifications.

The licensee will use existing systems and interim procedures for events which might reasonably be expected to occur during the period until these systems are installed and operational. Interim procedures for obtaining primary containment gas samples and reactor water samples have been implemented at Pilgrim. In addition, two redundant hydrogen analyzers and one oxygen analyzer are presently installed at Pilgrim to measure containment atomosphere hydrogen and oxygen content.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	June 1, 1984.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge [1] and vent valves on radiation signal.	Technical exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Complete.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Do.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	June 1, 1984.
II.K.3.15	Isolation of HPCI and RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Complete.
II.K.3.22	RCIC Suction [1]	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Technical exception.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not part of Confirmatory Order.

ATTACHMENT 2—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedure [1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	Jan. 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations [1].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities [1].	do	do	Do.
III.A.2.2	Meterological Data [1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be Determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-8394 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-325]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Unit 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Carolina Power & Light Company (the licensee) is the holder of Facility Operating License No. DPR-71 which authorizes the operation of the Brunswick Steam Electric Plant, Unit 1 (the facility) at steady-state power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Brunswick County, North Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion. (2) For items that have not been

completed, a specific schedule for implementation, which the licensee committed to meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82–05 by letters dated April 23, June 24, and December 6, 1982; the licensee responded to Generic Letter 82–10 by letters dated June 9, and December 6, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licesee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82–05 and 82–10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82–10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82–111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eleven of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to one item, II.E.4.2.7, that will be addressed in a separate action and is therefore not included in this Order. The staff's evaluation of the licensee's delays for the remaining eight items is provided herein:

II.B.3 Post Accident Sampling

This item will be delayed by the licensee and will be completed by June 1, 1983. The installation delay has been caused by prolonged equipment procurement and delivery schedules. Installation will be performed during the Fall 1982 outage. The licensee also anticipates substantial test and checkout before the system can be declared operational. The licensee has implemented interim compensatory measures.

II.F.1 (1–6) Post-accident Monitoring (6 items)

The licensee will delay three items, II.F.1.3, II.F.1.5, and II.F.1.6, until June 1, 1983. The licensee asserts that item II.F.1.4 is complete. The licensee anticipates no difficulties completing items II.F.1.3, II.F.1.5 and II.F.1.6 during the upcoming fall outage (refueling outage prior to the start of Cycle 4). With respect to items II.F.1.1 and II.F.1.2, the licensee has experienced significant delays in the development, procurement and delivery of the isokinetic sample probes and in the procurement and delivery of the needed cabling. In addition, certain aspects of the installation will require concurrent outages of the Units 1 and 2. The licensee intends to perform this specific aspect during a brief dual-unit outage during the 1982 fall refueling outage on Brunswick Unit 1. However, should that not prove to be feasible, the licensee will, in any event, complete items II.F.1.1 and II.F.1.2 on both units prior to June 1, 1983.

II.K3.22 RCIC Suction Automatic Transfer

The licensee has committed to complete this item during the upcoming fall 1982 refueling outage. The short-term requirement to insure that procedures adequately address manual suction transfer and when it is needed has been completed.

II.K.3.18 ADS Actuation

The BWR Owners Group generic submittal was made on October 29, 1982. The licensee is assessing the applicability of that submittal to the facility and will provide a plant-unique submittal by February 28, 1983.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay in the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	...do	Install upgraded post-accident sampling capability	June 1, 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
		do	Part 7—isolate purge & vent valves on radiation signal [1].	Technical Exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	June 1, 1983.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Prior to start of Cycle 4 (June 1, 1983).
		do	(4) Provide continuous indication of containment pressure.	Complete.
		do	(5) Provide continuous indication of containment water level.	Prior to start of Cycle 4 (June 1, 1983).
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Complete.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Prior to start of Cycle 4 (May 1983).
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not Part of Confirmatory Order.

ATTACHMENT 2—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test	July 1, 1981	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Feb. 28, 1983.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
	Upgrade Emergency Support Facilities [1].	do	do	Do.
III.A.2.2	Meteorological Data [1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete

[1] Not Part of Confirmatory Order.

[FR Doc. 83-8395 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Unit 2); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Carolina Power & Light Company (the licensee) is the holder of Facility Operating License No. DPR-62 which authorizes the operation of the Brunswick Steam Electric Plant, Unit 2 (the facility) at steady-state power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Brunswick County, North Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82–05 by letters dated April 23, June 24, July 1, and December 6, 1982; the licensee responded to Generic Letter 82–10 by letters dated June 9, and December 6, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82–05 and 82–10 applied to 16 and 10 items, respectively for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82–10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82–111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Thirteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to one item, Item II.E.4.2.7, that will be addressed in a separate action and is therefore not included in this Order. The staff's evaluation of the licensee's delays for the remaining six items is provided herein:

II.B.3 Post Accident Sampling

This item will be delayed by the licensee and will be completed by June 1, 1983. The installation delay has been caused by prolonged equipment procurement and delivery schedules and by continuing difficulty in establishing and maintaining required systems availability for periods of time sufficient to complete various tie-ins. The licensee also anticipates substantial test and checkout before the system can be declared operational. The licensee has implemented interim compensatory measures.

II.F.1 (1–6) Post-Accident Monitoring (6 Items)

The licensee will delay two Items, II.F.1.1, and II.F.1.2, until June 1, 1983, one Item, II.F.1.5, until eight months after start of Cycle 5 (April 1983), and one Item, II.F.1.6, until the first outage of sufficient duration, but not later than prior to the start of Cycle 6. The licensee asserts that two Items, II.F.1.3 and II.F.1.4, are complete. With respect to Items II.F.1.1 and II.F.1.2, the licensee has experienced significant delays in the development, procurement and delivery of the isokinetic sample probes and in the procurement and delivery of the needed cabling. In addition, certain aspects of the installation will require concurrent outages of both Units 1 and 2. The licensee intends to perform this specific aspect during a brief dual-unit outage during the 1982 Fall refueling outage on Brunswick Unit 1. However, should that not prove to be feasible, the licensee will in any event, complete Items II.F.1.1 and II.F.1.2 on both units prior to June 1, 1983. Late delivery of qualified instrumentation valves and manifolds precluded completion of Item II.F.1.5 during the recent Brunswick Unit 2 outage. It will, however, be complete within eight months after the start of Cycle 5 (May 1983). The installation schedule for Item II.F.1.6 is significantly longer than the schedule for the 1982 refueling outage, with no possibility of reducing the installation time. Thus, the licensee is deferring installation until the first outage of sufficient duration, but no later than prior to the start of Cycle 6 (3/84). In the interim the licensee will continue to use the existing hydrogen and oxygen monitors.

II.K.3.18 ADS Actuation

The BWR Owners Group generic submittal was made on October 29, 1982. The licensee is assessing the applicability of that submittal to the facility and will provide a plant-unique submittal by February 28, 1983.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Reqirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	June 1, 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
		do	Part 7—isolate purge [1] & vent valves on radiation signal.	Technical Exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	June 1, 1983.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Complete.
II.F.1		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Eight months after start of Cycle 5 (May 1983).
		do	(6) Provide continuous indication of hydrogen concentration in containment.	First outage of sufficient duration, but no later than prior to the start of Cycle 6.
II.K.3.15	Isolation of HPCI and RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Complete.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not part of Confirmatory Order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [1]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test	July 1, 1981	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Feb. 28, 1983.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations [1].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities [1].	do	do	Do.
III.A.2.2	Meteorological Data [1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 82-8818 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-254/265]

Commonwealth Edison Company and Iowa-Illinois Gas and Electric Co. (Quad Cities Nuclear Power Station, Units 1 and 2); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Commonwealth Edison Company (the licensee) is the holder of Facility Operating License Nos. DPR-29 and DPR-30 which authorize the operation of the Quad Cities Nuclear Power Station, Units 1 and 2 (the facilities) at steady-state power levels not in excess of 2511 megawatts thermal. The facilities are boiling water reactors (BWRs) located at the licensee's site in Rock Island County, Illinois.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letters dated April 15, June 10, August 5, August 27, and October 14, 1982; the licensee responded to Generic Letter 82-10 by letters dated June 4, and September 20, 1982. In these submittals, the licensee confirmed that all but two of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eighteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining two items is provided herein:

II.F.1.2 Provide Capability for Effluent Monitoring of Iodine

The item has been delayed by the inability of the licensee to procure the ordered equipment from the supplier, Victoreen. Based on the current vendor schedule, the licensee expects delivery from the vendor by January 30, 1983. Contingent on the vendor delivery on schedule, the licensee expects the equipment to be installed and operational by July 1, 1983. In the interim, acceptable compensatory measures already instituted by the licensee will remain in effect.

II.F.1.6 Continous Indication of Hydrogen Concentration in Containment

This item is delayed because of the licensee's difficulties in procuring environmentally and seismically qualified hydrogen monitoring equipment. Based on current information the licensee believes that properly qualified equipment can be delivered by September 1983 and made operable by December 31, 1983. In the interim, acceptable compensatory measures will continue to be applied until the upgraded and qualified hydrogen monitoring equipment is made operable.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V.

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1982	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	Do.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	July 19, 1983.
		do	(3) Install incontainment radiation-level monitors	Complete.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	December 19, 1983.
II.K.3.15	Isolation of HPCI and RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Complete.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.2.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
II.K.2.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift [1] Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1981	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency [1] Support Facilities.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorological [1] Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-8390 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Company, Central Iowa Power Cooperative, Corn Belt Power Coop. (Duane Arnold Energy Center); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Iowa Electric Light and Power Company, et al. (the licensee) is the holder of Facility Operating License No. DPR-49 which authorizes the operation of the Duane Arnold Energy Center (the facility) at steady-state power levels not in excess of 1658 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Linn County, Iowa.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letters 82-05 and 82-10 by letters dated April 14, 1982 and June 16, 1982, respectively. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet-pumps. Of the ten items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eleven of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining nine items is provided herein:

II.B.2 Plant Shielding

This item will be completed during the next refueling outage scheduled to start in February 1983. This delay was caused by the main steam isolation valve repairs requiring a six-week shutdown which resulted in extending the current operating fuel cycle into the first quarter of 1983. The only plant shielding remaining to be completed is associated with the post-accident sampling system which is addressed in Item II.B.3 of this Order.

II.B.3 Post-Accident Sampling

This item will be completed during the next refueling outage scheduled to start in February 1983. This delay was caused by failure of the newly installed system to pass the flow test requirements. The licensee states that valve modifications must be made and require the procurement of long lead items. As a compensatory measure the licensee states that an interim post-accident sampling system is available and operational, pending completion of the required modifications.

II.F.1(1-5) Post-Accident Monitoring (5 Items)

These items will be completed during the next refueling outage scheduled to start in February 1983. Items II.F.1 (1) and (2) are delayed pending the licensee's resolution of the electricial connectors and debugging of the instrumentation system. For item II.F.1(3) the resolution of the electrical connectors, which is presently in progress, will complete this item. Items II.F.1(4) and (5) are delayed because of instrument calibration problems; and the resolution of the notification of defect (10 CFR Part 21) concerning the thermal non-repeatability in certain Barton transmitters. As a compensatory measure, the licensee states that existing procedures and practices post-accident monitoring will remain in force until the modified system is fully imlemented in accordance with the requirements of Item II.F.1.

II.K.3.27 Common Reference Level

This item will be completed during the next refueling outage scheduled to start in February 1983. The amount of time that will be required for the retraining of operators and revision of the procedures is the cause of the delay.

III.D.3.4 Control Room Habitability

This item will be completed during the next refueling outage scheduled to start in February 1983. The extension of the present refueling cycle delay of the completion of the installation of the sodium hypochloride system pending plant shutdown in February 1983. The use of the current system is required during operation.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; and (2) there is good cause for the delays; (unexpected design complexity, interface problems, and equipment delays) and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Prior to Cycle 7 Sart-up.
II.B3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Do
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do
		do	Part 7—isolate purge and vent valves on radiation signal.	Do
II.F.1	Accident Monitoring	Jan. 1 1982	(1) Install noble gas effluent monitors	Prior to Cycle 7 Start-up.
		do	(2) Provide capability for effleunt monitoring of iodine	Do
		do	(3) Install incontainment radiation level- monitors	Do
II.F.1		do	(4) Provide continuous indication of containment pressure.	Do
		do	(5) Provide continuous indication of containment water level.	Do
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Copmplete.
II.K.3.15	Isolation of HPIC & RC/CModification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do
II.K.3.24	Space Cooling for HPCI/RCIC	do	confirm the adequacy of space cooling for HPCI/RCIC	Do

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Prior to Cycle 7 start-up.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NURRG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Plicy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift [1] Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revised Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports or relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Aug. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 and 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency [1] Support Facilities.	do	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorological [1] Data	do	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Prior to Cycle 7 Start-up.

[1] Not part of confirmatory order.

[FR Doc. 83-8397 Filed 4-4-83; 8:45am]
BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Nebraska Public Power District (the licensee) is the holder of Facility Operating License No. DPR-46 which authorizes the operation of the Cooper Nuclear Station (the facility) at steady-state power levels not in excess of 2381 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Nemaha County, Nebraska.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letters dated April 16, and October 18, 1982; the licensee responded to Generic Letter 82-10 by letter dated June 4, 1982. In these submittals, the licensee confirmed that all but two of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet-pumps. Of the ten items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eighteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining two items is provided herein:

II.F.1(1 and 2) Post-Accident Monitoring (2 Items)

The licensee will complete installation and confirm operability of the noble gas and iodine particulate post/accident monitoring instrumentation during the Spring 1983 refueling outage, which is scheduled to begin in April 1983. The delay is due to continuing vendor equipment delivery delays. The licensee has cancelled its original contract and selected a new vendor that will provide the required instrumentation in time for installation during the Spring refueling outage. In accordance with its letter to NRC (Short Term Lessons Learned) dated April 10, 1980, the licensee has interim procedures in place for post-accident monitoring.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; and (2) there is good cause for the delays, equipment delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's Completion Schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Do.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Refueling outage 8 (April 1983).
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Complete.
II.F.1		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

ATTACHMENT 2—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift ¹ Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency ¹ Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports or relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis ¹	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels ¹ for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency ¹ Support Facilities.	do	do	Do.
III.A.2.2	Meteorological ¹ Data	do	do	Do.

ATTACHMENT 2—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10—Continued

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-8338 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corporation (Nine Mile Point Nuclear Station Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Niagara Mohawk Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-63 which authorizes the operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) at steady-state power levels not in excess of 1850 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are herey incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letters 82-05 and 82-10 by letters dated April 16, 1982 and June 7, 1982, respectively. Subsequently, these letters were augmented by letters dated August 20, 1982, September 30, 1982 and October 1, 1982. Finally, Niagara Mohawk forwarded a letter dated November 29, 1982 which superseded all prior correspondence and the schedular commitments contained therein.

In March 1982 the Nine Mile Point plant was shutdown for an extended period in order to replace all recirculation system piping. In order to accomplish this major replacement effort all fuel was removed from the reactor vessel and placed in the spent fuel pool. In September 1982 Niagara Mohawk advised that plant restart was anticipated in September 1983.

By letter dated November 29, 1982 Niagara Mohawk provided the commitments to complete NUREG-0737 items prior to plant startup at the completion of the present extended outage. The attached Table was developed based on this information.

Generic Letter 82-05 applied to a total of 17 items for Boiling Water Reactors. Since Nine Mile Point is a non-jet pump BWR, Item II.K.3.19 which applies only to non-jet pump BWRs is applicable. However, since Nine Mile Point is not equipped with a Reactor Core Isolation Cooling System (RCICS) two items are not applicable, II.K.3.15 and II.K.3.22. Thus, a total of 15 items from Generic Letter 82-05 are applicable to Nine Mile Point.

Generic Letters 82-10 applied to 10 items for Boiling Water Reactors. Of these 10 items six are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that proceed as a result of its consideration of SECY 82-111, as amended; and Items II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Sixteen of the 19 items addressed in this Order are considered by the licensee to be complete or to require no modifications. The licensee is taking technical exception to one item, II.E.4.2.7 which will be addressed in a separate action and is therefore not included in this Order. The staff's evaluation of the licensee's delay for the remaining items, II.F.1(1) and II.F.1(2) is provided herein.

We find, based upon the above that the licensee's commitment to implement Items II.F.1(1) and II.F.1(2) prior to plant restart at the completion of the present extended outage to be acceptable.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of the public health and safety and that the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be

addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Do.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge* & vent valves on radiation signal	Technical Exception.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effulent monitors	To be completed prior to plant start-up for resumption of Cycle 7.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Complete.
	xf	do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of* HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Not Applicable.
II.K.3.19	Interlock Recirculation Pump Modification.	do	Install interlocks on recirculation pump loops	Complete.
II.K.3.22	RCIC Suction*	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Not Applicable.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

*Not Part of Confimatory Order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's Completion Schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dated June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dated June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift [1] Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 year after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support [1] Facilities.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorological [1] Data	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as determined by licensee study	To be completed prior to plant startup for Cycle 8 operation.

[1] Not Part of Confirmatory Order.

[Docket No. 50-263]

Northern States Power Co. (Monticello Nuclear Generating Plant); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License No. DPR-22 which authorizes the operation of the Monticello Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 1670 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Wright County, Minnesota.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience form the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff has proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committedto meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory meaures being taken.

III

The licensee responded to Generic Letter 82-05 by letter dated April 16, 1982; and to Generic Letter 82-10 by letter dated June 4, 1982, as supplemented by letters dated June 1, 16, and 28, 1982; July 21, 1982; October 13, 1982; and November 8 and 16, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet-pumps. Of the ten items listed in Generic Letter 82-10, seven times are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A. 2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eighteen of the 19 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to Item I.A.1.3.1, that will be addressed in a separate action and is therefore not included in this Order. The staff's evaluation of the licensee's delays for the remaining one item is provided herein:

III.D.3.4 Control Room Habitability Requirements

The licensee will delay completion of III.D.3.4 until June 30, 1983 with this date representing a six month delay. This delay is attributed to (a) engineering, (b) material, and (c) productivity problems for the following reasons: (a) Engineering delays have been experienced because the design of the ventilation equipment and reactor building addition required to house this equipment has continually evolved and required extensive redesign work, (b) Material delays have been experienced because material and equipment deliveries have been late, also causing construction delays; and (c) Productivity delays have been experienced because of cramped working conditions.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; and (2) there is good cause for the several delays; (unexpected design complexity, interface problems, and equipment delays).

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 Items From Generic Letter 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Do.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install in containment radiation-level monitors	Do.
II.F.1		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of cantainment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime*	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Technical Exception.
I.A.1.3.2	Minimum Shift* Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency* Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K. 3.30 & 31	SBLOCA Analysis*	1 yr. After staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Level* for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency* Support Facilities.	do	do	Do.
III.A.2.2	Meteorological* Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be Determined by licensee	Modify facility as identified by licensee study	June 30, 1983.

* Not Part of Confirmatory Order.

[FR Doc. 83-8400 Filed 4-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Power Authority of the State of New York (the licensee) is the holder of facility Operating License No. DPR-59 which authorizes the operation of the James A. FitzPatrick Nuclear Power Plant (the facility) at steady-state power levels not in excess of 2536 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial Additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. these letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The Power Authority of the State of New York responded to Generic Letter 82–05 by letters dated April 21, August 9, August 23, and December 23, 1982; the licensee responded to Generic Letter 82–10 by letter dated June 9, August 25, and December 23, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82–05 and 82–10 applied to 16 and 10 items, respectively for BWRs with jet-pumps. Of the ten items listed in Generic Letter 82–10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82–111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Fifteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining five items is provided herein:

II.B.3 Post-Accident Sampling

The licensee has stated that modification work is in progress. However, delays have occurred due to difficulties in obtaining environmentally qualified equipment, the additional engineering and procurement actions necessary to provide an alternate power supply, and the magnitude of the installation effort. The licensee has identified compensatory measures utilizing existing installed hardware, instrumentation, and approved procedures that it believes is adequate to assure the capability to assess core damage until the modifications are completed. All actions pertaining to this item will be completed prior to the start of Cycle 6 (7/83).

II.F.1(1–6) Additional Accident-Monitoring Instrumentation (6 Items)

The licensee has completed three items: II.F.1(1), (4) and (5). The licensee will delay three items: II.F.1(2), (3) and (6). For item II.F.1.(2), Post-Accident Effluent Sampling for Iodine and Particulates, the licensee intends to install a flow dilution sampling system which will permit the sampling and analysis of radioiodines and particulates using NUREG–0737 source terms as a design basis. The licensee has encountered a delay in installation. The delay is based on the time necessary for the licensee to resolve certain apparent discrepancies identified by its consultant as a result of the consultant's reevaluation of this item. All actions pertaining to this item will be completed by October 31, 1983. For Item II.F.1(3), Containment High-range Radiation Monitor, the licensee has installed two monitors during the 1981 refueling outage. One monitor is operable; however, the second monitor was not declared operable because it generated spurious containment isolation signals. A containment entry is necessary to correct the deficiency. All actions pertaining to this item will be completed prior to the start of Cycle 6 (7/83). For Item II.F.1(6), Containment Hydrogen Concentration Monitor, the licensee has experienced delays in completing this item due to difficulties in equipment procurement and in obtaining environmentally qualified equipment. In the interim, the licensee has alternate equipment previously installed which provides a hydrogen monitoring capability, as well as other safety-related system designed to mitigate hydrogen buildup in containment. All actions pertaining to this item will be completed prior to the start of Cycle 6 (7/83).

III.D.3.4 Control Room Habitability

The licensee has experienced delays in completing this item due to difficulties associated with minimizing the impact of design modifications on control room activities, i.e., work area conflicts, manpower availability, and limiting the maximum number of craft, labor, and support personnel. Impact on Control Room activities can thus be minimized by conducting the modifications during planned outages. All actions pertaining to this item will be completed prior to the start of Cycle 6 (7/83).

We have evaluated the delays associated with the above items and find that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, scheduling difficulties and equipment procurement delays); and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commissions' regulations in 10 CFR Part 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 Schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Prior to start of Cycle 6 (July 1983).
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Oct. 31, 1983.
		do	(3) Install incontainment radiation-level monitors	Prior to start of Cycle 6 (July 1983).
II.F.1		do	(4) provide continuous indication of containment pressure.	Complete.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Prior to start of Cycle 6 (July 1983).
II.K.3.15	Isolation of HPCI and RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Complete.
II.K.3.22	RCIC suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

ATTACHMENT 2—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revised administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift* Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency* Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis*	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels* for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency* Support Facilities.	do	do	Do.
III.A.2.2	Meteorological* Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be Determined by licensee	Modify facility as identified by licensee study	Prior to the start of Cycle 6 (July 1983).

*Not Part of Confirmatory Order.

[FR Doc. 83-8401 Filed 4-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Vermont Yankee Nuclear Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-28 which authorizes the operation of the Vermont Yankee Nuclear Power Station (the facility) at steady-state power levels not in excess of 1593 megawatts thermal. The facility is a boiling water reactor (BWR) located near Vernon, Vermont.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information

for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82–05 by letters dated May 27, 1982 and June 4, 1982; the licensee responded to Generic Letter 82–10 by letters dated June 9, June 15, and October 12, 1982, and November 10, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82–05 and 82–10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letters 82–10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82–111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Eighteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining two items is provided herein:

II.B.3 Post-Accident Sampling

The licensee has stated that a system designed to meet the intent of this item was installed as of December 30, 1981. Verification of design is in progress. Any additional modifications resulting from design verification will be completed during the Cycle 10 refueling outage scheduled for March 1983. The installed system provides compensatory capability until design verification is complete.

III.D.3.4 Control Room Habitability

The licensee has submitted and committed to proposed modifications which have been approved by the staff. Long lead times associated with procurement of monitoring equipment and subsequent allowance for operational testing and installation has resulted in delay of the projected implementation date until October 1, 1983.

We find, based on the above evaluation, that: 1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; 2) there is good cause for the delays; and 3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident Sampling	do	Install upgraded post-accident sampling capability	Prior to start of cycle 10 (3/83).
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5-lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7-isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install incontainment radiation-level monitors	Do.
II.F.1		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.

ATTACHMENT 1—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's Completion Schedule
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 Dated June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dated June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift [1] Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 year after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support [1] Facilities.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorological [1] Data	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	October 1983.

[1]Not Part of Confirmatory Order.

[FR Doc. 83-8402 Filed 4-4-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13105; 811-1949]

Able Associates Fund; Application

March 21, 1983.

In the matter of Able Associates Fund, 174 Birch Drive, Manhasset Hills, New York 11040, (811-1949); Notice of application pursuant to section 8(f) of the Act and Rule 8f-1 thereunder for an order declaring that applicant has ceased to be an investment company.

Notice is hereby given that Able Associates Fund ("Applicant"), registered under the Investment Company Act of 1940 (the "Act") as an open-end, non-diversified management investment company, filed an application on January 18, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below.

Applicant states that it registered under the Act on September 30, 1969, by filing a registration statement on Form N-8b-1 pursuant to Section 8(b) of the Act. On the same date, Applicant states that it filed a registration statement with respect to shares of its common stock, $1.00 par value, pursuant to the Securities Act of 1933. Such registration statement is represented to have become effective on November 5, 1971, and, it is further represented, Applicant commenced the initial public offering of its shares on that date.

Applicant represents that, pursuant to an Agreement and Plan of Reorganization dated June 7, 1982, between Applicant and The Evergreen Total Return Fund, Inc. ("Total Return"), a diversified, open-end investment company registered under the Act, which had been approved by its Board of Directors on May 24, 1982, and which was subsequently approved by its stockholders on August 16, 1982, it sold substantially all its assets, on October 28, 1982, to Total Return in exchange for common stock of Total Return on the basis of relative net assets. The application states that immediately following the sale, such shares of Total Return common stock were distributed pro rata to stockholders of Applicant in complete liquidation of Applicant. Applicant states that it has not retained any assets and that it has no debts or other liabilities outstanding. Applicant further states that a Certificate of Dissolution which it filed with the State of Delaware on December 8, 1982, became effective on December 29, 1982, and Applicant was dissolved under the laws of the State of Delaware. Accordingly, it has ceased conducting the business for which it was organized.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8804 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13117; (811-3452)]

Cardinal Income Trust; Filing of an Application

March 29, 1983.

Notice is hereby given that Cardinal Income Trust ("Applicant"), 155 East Broad Street, Columbus, Ohio 43215, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on February 17, 1983, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

A business trust organized under Pennsylvania law, Applicant states that it has never sold any of its securities. Applicant's registration never became effective, and its president, pursuant to authority granted by Applicant's by-laws and powers of attorney executed and delivered by each of Applicant's trustees, authorized deregistration of Applicant.

Applicant declares that when it filed its application it had no assets or debts, and was not engaged in any business activities other than those necessary for the winding-up of its affairs. Applicant represents that it may in the future commence business activities as an investment company under the Act upon compliance with all applicable laws. Applicant further represents that it is not a party to any litigation or administrative proceeding, and that it has no securityholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall terminate.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8807 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13115; (812-4850)]

Chancellor Tax-Free Money Fund, Inc.; Filing of Application

March 29, 1983.

Notice is hereby given that Chancellor Tax-Free Money Fund, Inc. (the "Applicant" or "Fund"), 100 Gold Street, New York, New York 10292, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on November 13, 1979 and amendments thereto on January 3, 1983 and March 9, 1983, for an order of the Commission pursuant to Section 6(c) of the Act exempting the Fund from the provisions of Section 12(d)(3) of the Act to permit it to acquire rights to sell its portfolio securities to brokers or dealers and from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value in the manner described in the application such rights acquire from banks, brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act, for the text of those provisions of the Act to which this exemption applies.

Applicant states that its investment objective is to attain for investors the highest level of current income that is exempt from Federal income taxes, consistent with liquidity and the preservation of capital. Prudential-Bache Securities, Inc. is the investment manager and distributor of the Fund. Prudential-Bache, a Delaware corporation and a broker-dealer registered under the Securities Exchange Act of 1934, is an indirect wholly-owned subsidiary of the Prudential Insurance Company of America ("Prudential"). According to the application, the Fund's portfolio is invested in high quality municipal bonds and notes (including such obligations issued at a discount) with short-term maturities, and, in certain cases, rights to resell such bonds or notes to the sellers thereof at agreed-upon prices within a specified period.

Applicant states that its portfolio is invested only in high quality municipal bonds and notes (including such obligations issued at a discount) with short-term maturities as follows:

1. Municipal Bonds with remaining maturities of one year or less which have been rated AAA or AA by Moody's Investors Service, Inc. ("Moody's") or AAA or AA by Standard & Poor's Corporation ("S&P"), or, if not rated, are of comparable quality as determined by the Board of Directors; or

2. Municipal Notes with remaining maturities of one year or less which are rated MIG–1 or MIG–2 by Moody's or, if appropriate, P–1 or P–2 by Moody's or A–1 or A–2 by S&P, or, if not rated, have been issued by an issuer having outstanding debt securities rated not lower than Aa by Moody's or AA by S&P or are of comparable quality in the judgment of the Board of Directors; or

3. Municipal Bonds or Notes with remaining maturities of one year or less which depend directly or indirectly on the credit of the United States government. Upon receipt of the requested order, the Fund may also purchase municipal bonds or notes together with the right to resell ("put") such bonds or notes to the seller at an agreed upon price or yield within a specified period prior to their maturity. The Fund's policy is generally to exercise the puts on their expiration date when the exercise price is higher than the current market price for related municipal bonds or notes. Although the Fund will generally not seek profits through short-term trading, it may dispose of or put any portfolio security prior to its maturity if, on the basis of a revised credit evaluation of the issuer or other circumstances or considerations, it believes such disposition advisable.

The dollar-weighted average maturity of all such instruments is expected to be maintained at 120 days or less.

The Applicant states that it intends to declare and reinvest its net income as a dividend to its shareholders on a daily basis, and that "net income" for this purpose will consist of all interest income accrued (including amounts of original issue discount amortized) on the portfolio assets of the Applicant, plus any realized gains or losses, less all

expenses of the Applicant. Net income does not include any unrealized capital gains of losses. According to the application, the nature of the investments which Applicant proposes to make has characteristics which are similar to those securitites which are generally designated as money market instruments.

Applicant states that it anticipates the need for immediate liquidity in making purchases of "when-issued" and delayed delivery securities. Since the fund is unable to enter into short-term repurchase agreements, because income in respect thereof is taxable, the same-day sale of portfolio securities may be disadvanatgeous to the Fund, and since the maintenance of univested cash is not an appealing investment strategy, immediate liquidity is an important factor in the Fund's ability to make when-issued or delayed delivery purchase commitments.

Applicant states that it requests an exemption from Section 12(d)(3) of the Act to enable it to adopt policies which would assure same-day settlements on portfolio sales in order to facilitate the same-day payment of redemption proceeds in federal funds and otherwise to enhance the Fund's liquidity; when the Fund purchases a municipal bond or note for its portfolio from a broker, dealer or other financial institution, it proposes to have the flexibility from time to time to acquire, in addition, the option to sell the same principal amount of such securities back to the institution at a specified price. Applicant states that such a right is sometimes referred to in the industry as an "optional delivery, stand-by commitment" and, as described below, is referred to in this Application as a "put".

Applicant states that the puts will have the following features: (1) They will be in writing in the form of a master agreement between the writer of the put and the fund, with the specific terms of the puts for individual issues set forth in a confirmation from the writer, copies of which will be sent to and physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) they will be entered into only with dealers, bands and broker-dealers who in the investment adviser's opinion present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal obligations purchased subject to puts could be sold to a third party at any time, even though the put was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the put (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant further states that since it values its municipal obligations on an amortized cost basis, the amount payable under a put will be substantially the same as the value of the underlying security.

According to the application, the Applicant expects that it will "pay" for puts through negotiation with the dealer selling the underlying security and that the amount of such "payment" will be allocated by such dealer in the confirmation of the purchase to be received by the Fund. As stated by Applicant, as a matter of policy, the total amount "paid" for outstanding puts held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any put is acquired.

As stated in the application, it will be difficult to evaluate the likelihood of exercise or the potential benefit of a put to the Fund if exercised. Therefore, the Applicant states that its board of directors will determine that the value of a put is zero, regardless of whether any direct or indirect consideration is paid. Where the Applicant has paid for a put its cost will be reflected as unrealized depreciation for the period during which the put is held by the fund. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the puts will be valued at zero and that the dollar-weighted average maturity will not be affected by the acquisition of a put.

Applicant states that the Fund has obtained a favorable ruling from the Internal Revenue Service with respect to puts to the effect that the Fund will be the owner of municipal securities acquired subject to a put option and that interest on the securities will be tax-exempt to the company. Applicant further states, however, that there is no assurance that puts will be available to the Fund, and that the continued availability of puts under all market conditions has not been assumed.

Applicant asserts that the requested relief is appropriate in the public interest and consistent with the protection of investors. Applicant submits that the proposed acquisition of puts will not affect the valuation or assumed maturity of the Fund's underlying municipal bonds and notes, which will be valued in accordance with the Fund's amortized cost order. Furthermore, Applicant states that the acquisition of puts will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan and will not be within the purpose of Section 12(d)(3). Finally, Applicant states it will not acquire puts to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 25, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature fo his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, vision of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-6856 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22897 (70-6851)]

Eastern Edison Co., and Montaup Electric Co.; Proposed Issue and Sale of First Mortgage Bonds by Parent and of Debentures by Subsidiary; Purchase of Debentures by Parent

March 29, 1983.

Eastern Edison Company ("Eastern"), 110 Mulberry Street, Brockton, Massachusetts 02403, a public utility subsidiary of Eastern Utilities

Associates, a registered holding company, and Montaup Electric Company ("Montaup"), P.O. Box 391, Fall River, Massachusetts 02722, a generating subsidiary of Eastern, have filed an application-declaration with this Commission pursuant to Sections 6(b), 9(a), 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42, 45, and 50 thereunder.

Eastern proposes to issue and sell, at competitive bidding, not more than $40,000,000 in principal amount of its First Mortgage and Collateral Trust Bonds, ——— % Series due ——— ("New Bonds"). The interest rate of the New Bonds will be a multiple of ⅛ of 1% and the price, exclusive of accrued interest, to be paid to Eastern for the New Bonds will be not less than 98% nor more than 102¾% of the principal amount thereof.

The New Bonds are to be issued under Eastern's Supplemental Indenture. The New Bonds will mature not earlier than five and not later than thirty years from the first day of the month in which they are issued.

It is anticipated that the supplemental indenture relating to the New Bonds will provide, with certain exceptions, that none of the New Bonds will be redeemed for a period of five years after the New Bonds are issued at a regular redemption price if such redemption is a part of, or in anticipation of, any refunding operation involving the incurring of indebtedness having an effective interest cost to Eastern of less than the effective interest cost of the New Bonds.

The proceeds of the sale of the New Bonds will be applied first to the repayment of all short-term bank indebtedness of Eastern which, when the new Bonds and issued, is expected to be outstanding in the amount of approximately $13,000,000. Such indebtedness will have been incurred in part to refinance three series of Eastern's First Mortgage and Collateral Trust Bonds in the aggregate amount of $13,996,000 which have matured in 1983 and in part to finance construction expenditures of Eastern. The remainder of the net proceeds of the New Bonds will be applied to purchase debenture bonds proposed to be issued by Montaup.

Montaup proposes to issue and sell to Eastern, and Eastern proposes to purchase at their principal amount plus accured interest, a principal amount of ——% debenture bonds due ——— ("New Debenture Bonds") which will be approximately equal to the remainder of the net proceeds from the sale of the New Bonds after the repayment of Eastern's short-term bank indebtedness. The maturity date and interest payment date of the New Debenture Bonds will be the same as the corresponding date for the New Bonds. The effective interest rate to Montaup of the New Debenture Bonds will approximate the effective interest rate of the New Bonds. The New Debenture Bonds themselves will contain all of their terms and there will be no indenture or similar instrument governing them.

The proceeds to Montaup from the sale of the New Debenture Bonds are to be applied to reduce short-term bank indebtedness incurred for construction (including facilities owned or to be owned in common with other utilities) or incurred to repay earlier borrowings so incurred. It is expected that bank borrowings of Montaup will be outstanding in the amount of approximately $27,000,000 when the New Debenture Bonds are issued. Eastern will deposit and pledge the New Debenture Bonds under its indenture securing its outstanding First Mortgage and Collatral Trust Bonds, as required by the provisions of the indenture.

Eastern proposes to open bids for the New Bonds on approximately May 17, 1983. It is expected that the New Bonds and the New Debenture Bonds will be issued and sold on approximately May 26, 1983. Eastern may employ alternative competitive bidding procedures in accordance with the statement of policy pursuant to Rule 50(a) (5) under the 1935 Act (Release No. 22623, September 2, 1982). Eastern considers it possible that market conditions at the time of the sale of the New Bonds may make it advisable to endeavor to arrange a sale through a negotiated public offering or by private placement. In such event, Eastern may amend this application-declaration to request an exception from Rule 50 which would permit it to negotiate the terms of such a sale.

The Application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their view in writing by April 22, 1983 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to became effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8858 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

H.W. Kaufman Financial Group; Notice of Application

[File No. 81-665]

March 30, 1983

Notice is hereby given that H.W. Kaufman Financial Group ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an exemption from the requirements of Sections 13 and 14 of the 1934 Act through December 31, 1983.

For a detailed statement of the information presented, all persons are referred to said application which is on file at the Offices of the Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given than any interested person not later than April 25, 1983 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.,C. 20549, and should state briefly the nature of the interest of the person submitting such information or requested the hearing, the reason for such request, and the issues of the fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8855 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13121; (811-2024)]

Mission Fund; Proposal To Terminate Registration

March 29, 1983.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Mission Fund ("Fund"), Suite 900, 1901 Avenue of the Stars, Los Angeles, CA 90067, registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of California on September 30, 1969. It registered under the Act by filing Form N-8A on February 10, 1970, and on the same date it filed a registration statement under the Act on Form N-8B-1, and a registration statement (File No. 2-36256) on Form S-5, pursuant to the Securities Act of 1933 ("1933 Act") in order to make a public offering of its shares of captial stock. The 1933 Act registration statement never became effective; no public offering was made; and it was declared abandoned by the Commission on March 8, 1974.

The files further indicate that the Fund never filed any of the periodic reports required to be filed under the Act and that it never had any assets; that the Fund never actively engaged in the investment company business and that its organizers abandoned the Fund shortly after it registered under the Act. No tax returns were ever filed with the California Franchise Tax Board ("Board") by the Fund and its right to do business in California as a corporation was suspended by the Board on August 17, 1970, for failure to elect an accounting period within nine months after the date of its incorporation. Accordingly, it appears that the Fund is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of that investment company shall cease to be in effect.

Notice is hereby given than any interested person may, not later than April 22, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8861 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13120; (811-460)]

Protected Investors of America Trust of 1934; Proposal To Terminate Registration

March 29, 1983.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Protected Investors of America Trust of 1934 ("Trust of 1934"), 666 Russ Building, San Francisco, CA 94104, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Trust of 1934 was created pursuant to the laws of California under an Agreement of Trust dated December 27, 1934 ("Agreement") between Protected Investors of America, a California Corporation, and Title Insurance and Guaranty Company, as Trustee and the holders of the securities ("certificates") issued by the Trust of 1934. Each certificate represented the establishment of a ten-year trust, with Title Insurance and Guaranty Company which subsequently became Western Title Insurance Company, as Trustee. The last certificates were issued in 1940 and matured in 1958. In that year the Trustee requested that all trust accounts be closed. As a result of this action all trusts were terminated and the securities or cash delivered with the exception of seventeen accounts and the amount involved was turned over to the State of California under the provisions of the Unclaimed Property Act. On the basis of the foregoing it appears the Trust of 1934 is no longer an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of that investment company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the matter may, not later than April 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon the company, at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shal be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the matter will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8860 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13119; (812-5473)]

Sears Tax-Exempt Investment Trust (and Subsequent Trusts and Similar Series of Trusts); Filing of Application

March 29, 1983.

Notice is hereby given that Sears Tax-Exempt Investment Trust, and all subsequent and similar series of Trusts, c/o Dean Witter Reynolds Inc., Unit Investment Trust Department, 5 World Trade Center, New York, NY 10048

(referred to collectively herein as "Trusts"), each a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and their sponsor, Dean Witter Reynolds Inc. ("Sponsor," and referred to herein with the Trusts as "Applicants"), filed an application on March 4, 1983, for an order of the Commission; pursuant to Section 45(a) of the Act, granting confidential treatment for the profit and loss statements of the Sponsor supplied in connection with registration statements for the Trusts filed with the Commission from time to time. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicants include Sears Tax-Exempt Investment Trust, Series 1 and all subsequent Trusts and all similar series of Trusts, sponsored by the Sponsor. Applicants represent that Series 1 is, and each future Trust will be, governed by a trust indenture ("Indenture") and a Standard Terms and Conditions of Trust ("Agreement") for that Trust (hereinater collectively called the "Trust Agreement") under which the Sponsor will act as depositor, United States Trust Company of New York will act as trustee and Standard & Poor's Corporation will act as evaluator. According to the application, the Trust Agreement for each Trust will incorporate standard terms and conditions of trust common to all Trusts. Pursuant to the Trust Agreement, when the portfolio for the Trust has been acquired, the Sponsor will deposit with the Trustee (on the "Date of Deposit") interest-bearing debt obligations and in some cases, units of previously issued series of Trust ("Portfolio Securities"). Applicants further represent that simultaneously with that deposit the Trustee will deliver to the Sponsor registered certificates ("Certificates") for the requisite number of Units, which will represent the entire beneficial ownership of the Trust at the Date of Deposit. These Units are in turn to be offered for sale to the public through the final prospectus by the Sponsor.

Applicants note that the Portfolio Securities will not be pledged or be in any other way subjected to any debt at any time after the Portfolio Securities are deposited in the Trust. Applicants represent that at least 90% of the Portfolio Securities will be interest-bearing debt obligations issued by or on behalf of states, counties, municipalities or territorial possessions of the United States, or authorities, agencies or other political subdivisions thereof ("Bonds") with fixed maturity dates and not having conversion or equity features. Applicants state that the Sponsor is accumulating the Portfolio Securities for the purpose of deposit for Series 1 and will follow a similar procedure of accumulating the Portfolio Securities for each future Trust. Applicants further represent that, in selecting the Portfolio Securities, the following factors are considered: (1) Minimum credit characteristics similar to those which would receive a Standard & Poor's Corporation or Moody's Investors Services Inc. rating of investment grade; (ii) reasonable value relative to other issues of similar quality and maturity; (iii) diversification of the Portfolio Securities as to purpose and location of Issuer; (iv) availability and cost of insurance, where applicable, for the prompt payment of principal and interest, when due; and (v) length of term of the Portfolio Securities.

The application states that the portfolio of each Trust will consist of the Portfolio Securities, together with accrued and undistributed interest and principal and undistributed cash realized from the sale, redemption, maturity or other disposition of the Portfolio Securities. Certain of the Securities may from time to time be redeemed or will mature in accordance with their terms. Applicants represent that the Sponsor may, under the Trust Agreement, direct the Trustee to sell or liquidate any of the Securities only upon the happening of certain events, as specified in the Agreement. Applicants further state that the proceeds from the maturity, sale, redemption or other disposition of Portfolio Securities will not be reinvested but will be distributed to Unitholders.

Applicants state that each unit in a particular Trust will represent a fractional undivided interest in the principal amount ot Portifolio Securities in the Trust. The numerator of the fractional interest represented by each unit will be 1 and the denominator equal to the number of Units of the Trust then outstanding. Applicants to represent that Units of each Trust will be redeemable. According to Applicants, in the event that any Units shall be redeemed, the demominator of the fraction will be reduced and the fractional undivided interest represented by such Unit increased. Units will remain outstanding until redeemed or until the termination of the Trust Agreement as provided therein. The Trust Agreement may be terminated (i) by written consent of 515 of Unitholders of the Trust, (ii) in the event that the last of the Portfolio Securities then curretly in the porfolio of the Trust has matured or has been redeemed or sold upon direction of the Sponsor to the Trustee, or (iii) automatically on date 50 years after the Date of Deposit. In addition, Applicants assert that the Trust may be terminated, upon written instruction of the Sponsor, if the value of the Trust falls below 30% of the par value of the Portfolio Securities initially deposited in the portfolio. According to the application, following the deposit of Portfolio Securities for each Trust by the Sponsor with the Trustee, and following the declaration of effectiveness of the registration statement of that Trust under the Securities Act of 1933 and clearance by the securities authorities of various states, the Sponsor will offer the Units of that Trust to the public at the public offering price set forth in the Prospecus, plus accured interest.

The application states that, while not obligated to do so, it is the Sponsor's present intention to maintain a market for the Units of each series of the Trusts, and to continually offer to purchase such Units at prices, subject to change at any time, based on the aggregate of the then current, offering prices of the Portfolio Securities in the Trust as computed by the evaluator. If the supply of Units exceeds demand, or for other business reasons, Applicants represent that the Sponsor may discontinue purchases of Units at prices based on the offering prices of the Porfolio Securities. In such event the Sponsor may nonetheless purchase Units, as a service to Unitholders, at a price based on the then current redemption value of those Units. Applicants state that in no event will the price offerd by the Sponsor for repurchase of Units be less than the current redemption value, based on the current bid prices for the Securities in the Trust. Applicants further represent that if the Sponsor purchases any Units at the current redemption value as set forth above, it may not resell such Units or re-offer such Units, but may tender such Units to the Trustee for redemption.

Applicants request conficential treatment for profit and loss statements of the Sponsor pursuant to Section 45(a) of the Act which provides, in pertinent part, the information filed with the Commission "shal be made available to the public, unless and except, insofare as the Commission . . . by order upon appplication finds that public disclosure is neither necessary nor appropriate in the public interest or for the protectio investors."

Applicants submit that public disclosure of the above financial

information is neither necessary nor appropriate in the public interest or for the protection of investors. Investors in the Trusts are not offered an opportunity to acquire any interest whatsoever in the Sponsor. Applicants repesent that apart from the Sponsor's obligation under the Trust Agreement to recommend the disposition of underlying Portfolio Securities for the reasons set forth in the Trust Agreement (which obligations may be performed by the Trustee or succesor Sponsor if not performed by the current Sponsor, the Sponsor functions soloely as an underwriter of the Trusts. Applicants also state that there is no legitimate interest on the part of the investors in the public disclosure of the profit and loss statements of the underwriters from whom the Units are purchased.

According to the application, to the extent that the Sponsor's solvency may concerably be thought relevent to the maintenance or the secondary market in the Units of the Trusts, the Sponsor's statement of financial condition, which is filed with the Commission and various stock exchanges and is readily available to the public, contains fully adequate information in the Prospectus of the Sponsor's right to terminate secondary market activities in a particular Trust. The application states that Unitholders are nevertheless fully protected by their right under the Trust Agreement to redeem their Units upon presentation of such Units properly endorsed to the Trustee. The unit-holders will receive the "Redemption Value" of the Units computed on the underlying assets of the particular Trust. According to Applicants, the existence of the Sponsor and its secondary market activities are irrelevantto the redemption right.

Applicants assert, therfore, that the financial information of the Sponsor is not material from the standpoint of investors. The soundness of the investors' interest in the Trust is solely a function of the fiscal condition of the issuers whose Securities are contained in the Trust's portfolio. Finally, Applicants represent that the financial operations of the Sponsor will in no way enhance of diminish the prospect for an orderly payment of the underlying Securities.

Notice is further given than any interested person wishing to request a hearing on the application may, not later than April 22, 1983, at 5:30 p.m., do so by sumitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be serve personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authirity.

George A. Fitzsimmon,

Secretary.

[FR Doc. 83-8559 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13122 (811-465)]

Timetrust Certificates; Proposal To Terminate Registration

March 29, 1983.

Notice is hereby given that the Commission proposes to declare by order on its own motion, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), that Timetrust Certificates ("Timetrust"), 130 Montgomery Street, San Francisco, CA 94104, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that Timetrust was created pursuant to California laws under an Agreement of Trust ("Agreement") dated August 16, 1938, between Timetrust, Incorporated, Title Insurance and Guaranty Company, and holders from time to time of Timetrust Certificates which were issued under the Agreement, and that it registered under the Act on May 12, 1942. Timetrust did not file a registration statement under the Act nor a registration statement pursuant to the Securities Act of 1933 in order to make a public offering of its securities. It never filed any of the periodic reports required to be filed under the Act and it never reported that it had any assets. The files further indicate that Timetrust did not actively engage in business after it registered under the Act other than to redeem in cash and in kind the certificates which were previously issued. It therefore appears that Timetrust is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon taking effect of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the matter may, not later than April 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact of law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon timetrust at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the matter will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 83-8560 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19641; (SR-CBOE-80-16)]

Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis and Notice of Extended Public Comment Period

March 29, 1983.

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new exchange committee responsible for evaluating the performance of and taking disciplinary action against maket

markers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.[1] The rule change was approved by the Commission on February 12, 1982,[2] but its approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement* v. *Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the Matter was remanded to the Commission.[3]

On May 11, 1983, the Commission reviewed the rule filing and approved, on a summary basis and for a 90-day period, those portions of the proposed rule change not in contention in the judicial proceeding.[4] That approval was extended for an additional 90 days on August 16, 1982 in anticipation of an amendment to the proposed rule change.[5] CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. To permit the Commission to review this amendment, the Commission on November 1, 1982, extended its temporary approval for an additional 60 days from that date. [6]

The amended proposed rule change requires, among other things, that for each month in a quarter and except in unusual circumstances, 75 percent of a market maker's total options contract volume must be in his appointed options classes and 25 percent of his total options transactions must be executed in person.

The Commission received a letter or comment concerning the proposed rule from the Chicago Board of Trade ("CBT") asserting that the rule would have anticompetitive and discriminatory effects, particularly as applied to CBT members who are also CBOE members.[7] The CBT also requested that the Commission extend the comment period on the proposed rule change. In addition, six comment letters were submitted to the CBOE, which forwarded them to the Commission.[8] On December 30, 1982, the Commission extended the public comment period to January 31, 1983, and extended its summary and temporary approval until March 30, 1983.[9] On February 2, 1983, the Commission received a comment letter from the attorneys for Charles B. Clement, contending that an in-person requirement was unfair to dual CBT/CBOE members, and that it was anticompetitive. The letter further argues that an in-person rule would prevent many CBT members from functioning as CBOE market makers and thus damage CBOE liquidity and price continuity, particularly since, in Clement's case, off-floor orders are market orders, *i.e.*, unconditioned orders to buy or sell at the best available price when the order reaches the trading post.[10] The Commission is interested in receiving further public comment on the rule proposal and is therefore extending the public comment period to May 2, 1983. At the same time, in order to allow the Commission adequate time to review the rule proposal, as well as any additional public comment that may be received, the Commission is extending for 90 days its temporary approval of those portions of the proposed rule change not at issue in *Clement* v. *Securities and Exchange Commission* that previously were approved on a temporary and summary basis.[11]

In order to assist the Commission in determining whether to approve the proposed rule change as amended or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning any portion of the proposed rule change by May 2, 1983. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to file No. SR–CBOE–80–16.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed changes which are filed with the Commission and all written communications relating to the proposed changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until June 28, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8662 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

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[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on June 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1963), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981).

[3] *Clement* v. *Securities and Exchange Commission*, 674, F.2d 641 (7th Cir. 1982).

[4] *See* Securities Exchange Act Release No. 18727 (May 11, 1982), 47 FR 21169 (1982).

[5] Securities Exchange Act Release No. 18963 (August 16, 1982), 47 FR 37020 (1982).

[6] Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790.

[7] Letter from Thomas R. Donovan, Chairman, Chicago Board of Trade to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, December 10, 1982

[8] See File No. SR-CBOE-80-16.

[9] Securities Exchange Act Release No. 19386 (December 30, 1982), 48 FR 915.

[10] Letter from Coffield Ungaretti Harris & Slavin to George A. Fitzsimmons, January 31, 1983.

[11] CBOE has requested by letter that the Commission extend its temporary approval for 90 days. *See* letter from Anne Taylor to Thomas G. Lovett, March 25, 1983. File No. SR–CBOE–80–16.

[Release No. 19636, SR-PSE-83-3]

Pacific Stock Exchange, Inc.; Proposed Rule Change

March 29, 1983.

In the matter of: Pacific Stock Exchange, Inc., 619 South Spring Street, Los Angeles, CA 90014, (SR–PSE–83–3); Order Approving Proposed Rule Change.

The Pacific Stock Exchange, Inc. ("PSE") submitted on January 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend current PSE Options Floor Procedure Advice B–6, concerning a market maker's use of floor brokers to effect transactions for the market maker's account. The amendment to paragraph 1(a) of the Advice is intended to resolve a possible ambiguity in the language of that paragraph with respect to market makers giving verbal instructions, rather than written order tickets, to floor brokers. The Advice is being amended to provide that a floor broker should "if possible" prepare an order ticket. In addition, the amendment to paragraph 1(a) will expressly make applicable to floor brokers who handle market maker orders the time-stamping requirements of Rule VI, Section 42 of the rules of the Board of Governors of the PSE.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release

(Securities Exchange Act Release No. 19506, (February 16, 1983) and by publication in the **Federal Register** (48 FR 7840, February 24, 1983)). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-8803 Filed 4-4-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region X—Advisory Council Meeting; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m., Tuesday, April 26, 1983, in the Elizabethan Room on the Mezzanine of the Davenport Hotel, West 807 Sprague Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651, U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210—(509) 456-3781.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

March 31, 1983.

[FR Doc. 83-8850 Filed 4-4-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 857]

Validity of Certain Foreign Passports; Addition of Kuwait

"Kuwait" is added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amends Public Notice 766 of August 4, 1981 (46 FR 39718).

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-8739 Filed 4-4-83; 8:45 am]

BILLING CODE 4710-06-M

RAILROAD RETIREMENT BOARD

Senior Executive Service; Performance Review Board; Schedule

AGENCY: U.S. Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the agency's schedule for awarding Senior Executive Service bonuses.

DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: James J. Costello, Bureau of Personnel, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611 (312-751-4570).

SUPPLEMENTARY INFORMATION: Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least fourteen days prior to the date on which the awards will be paid.

Schedule for Awarding Senior Executive Service Bonuses

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service Bonuses at least fourteen days prior to the date on which the awards will be paid. The U.S. Railroad Retirement Board intends to award Senior Executive Service Bonuses for the performance rating cycle of October 1, 1981 through September 30, 1982, with payouts scheduled for May 31, 1983.

Dated: March 25, 1983.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

[FR Doc. 83-8740 Filed 4-4-83; 8:45 am]

BILLING CODE 7905-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 66
Tuesday, April 5, 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

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 7, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda Item No., and Subject

Private Radio—1—*Title:* In re Alaska-Public Fixed Service, amendment of Parts, 2, 81, 83, 87, 90, and 97 of the FCC's Rules and Regulations. *Summary:* The Commission will consider proposing new regulations concerning the Alaska-Public Fixed Service, the Alaska Emergency Frequency, and related rules.

Private Radio—2—*Title: Memorandum Opinion and Order* in the Matter of an Application for Review filed by Kokusai Electric Company of America. *Summary:* The FCC will consider whether to grant the relief requested in an application for review filed by Kokusai Electric Company regarding the grant of a license to X.W. Corporation of Fullerton, California. The license was granted to X.W. Corporation in October 1981, permitting X.W. Corporation to relocate the transmitter for its Station WZN 576, a Specialized Mobile Radio System, from Loop Canyon Peak, CA to Oat Mountain, CA.

Private Radio—3—*Title:* Proposed amendment of Rules to permit operation of Self Powered Vehicle Detectors. *Summary:* The FCC has before it for consideration a Notice of Proposed Rule Making which would amend the Local Government and Highway Maintenance Radio Service rules to permit operation of self powered vehicle detectors in the upper 40 MHz range without specific licensing separate from the base/mobile authorization already held by the applicant.

Common Carrier—1—*Title:* Amendment of Sections 25.151(a) and 25.176(c) of the Commission's Rules with respect to telecommunications satellite procurement. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rulemaking that proposes to amend Sections 25.151(a) and 25.176(c) of the Commission's Rules with respect to telecommunications satellite procurement. The proposed rule will raise the minimum dollar level of procurements subject to the communications satellite procurement regulations from $25,000 to $100,000.

Common Carrier—2—*Title:* Amendment of Annual Report From M regarding revision of certain schedules. *Summary:* The Commission will consider whether to adopt a Report and Order to ease certain reporting requirements in the annual reports of telephone carriers.

Common Carrier—3—*Title:* Notice of Proposed Rulemaking relating to Common Carrier and Satellite Licensing Procedures Pursuant to the Communications Amendments Act of 1982. *Summary:* The Commission will consider whether to issue a Notice of Proposed Rulemaking that proposes amendments to the Commission's Rules and procedures relating to common carrier and satellite radio licensing. The proposed amendments reflect some of the amendments to the Communications Act of 1934 made by the Communications Amendments Act of 1982, Pub. L. No. 97-259.

Common Carrier—4—*Title:* Deregulation of Mobile Customer Premises Equipment. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rulemaking looking toward the deregualtion of mobile telephone customer premises equipment. This equipment was excluded from the scope of the Second Computer Inquiry which deregulated all other conventional telephone equipment.

Common Carrier—5—*Title:* Petition for Reconsideration of Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L). *Summary:* The Commission will decide whether or not to adopt a Petition for Reconsideration of its decision to eliminate FCC Form L.

Common Carrier—6—*Title:* AT&T Petition for Waiver of Section 64.702 of the Commission's Rules and Regulations with Respect to the Department of Defense and Specified Government Agencies (ENF 83-13). *Summary:* Commission consideration of waiver of Computer II rules to permit Department of Defense and other specified government agencies to obtain new customer premises equipment from Long Lines and the BOCs for emergency and national defense communications until divestiture of the BOCs.

Common Carrier—7—*Title:* Amtel Communications, Inc. *Summary:* The Commission will consider what action to take in light of the suspension of the appeal in *Amtel Communications, Inc. v. F.C.C.*, D.C. Circuit Docket No. 82-1473, in response to a motion for remand by FCC counsel. In the order appealed from, the Commission denied a petition by Amtel Communications, Inc., for a ruling that rates imposed by various Bell System telephone exchange carriers for connections between exchange-line terminations and concentrator identifier units used by telephone answering services are anticompetitive and unreasonably discriminatory. *Amtel Communications, Inc.*, 89 FCC 2d 562 (1982).

Common Carrier—8—*Title: Memorandum Opinion and Order on Reconsideration (Part 2),* in General Docket 80-183 and *Further Notice of Proposed Rulemaking. Summary:* The Commission has before it a *Memorandum Opinion and Order on Reconsideration (Part 2),* of its Report and Order, in General Docket 80-183, 89 FCC 2d 1337, 47 FR 24557 (1982), which allocated 3 MHz of spectrum for private and common carrier one-way paging stations. This Order deals exclusively with nationwide network paging issues. The *Further Notice of Proposed Rulemaking*, requests comments on the nature and extent of rate regulation for the network frequencies.

Audio—1—*Title:* License Renewal Application of Riverside Broadcasting Company, Inc., for Station WKHK(FM), New York, New York. *Summary:* The Commission considers petitions to deny filed by Citizens for Jazz on WRVR, Inc., and the Committee to Save Black Radio alleging that licensee's entertainment format change was not in the public interest; that licensee made misrepresentations to the Commission concerning its entertainment format; and that licensee failed to comply with or violated the Commission's rules or policies concerning equal employment opportunity, stock ownership and reporting, multiple and cross ownership, programing and ascertainment.

Video—1—*Title:* Request for temporary use of television broadcast channels 16 and 19 for point-to-point communications in connection with the 1984 Olympic Games in Los Angeles. *Summary:* The Commission will consider the requests of ABC and the Los Angeles Olympics Organizing Committee for temporary use of broadcast television channels 16 and 19 for point-to-point communications in connection with the 1984 Olympic Games.

Video—2—*Title:* Application for review of Bureau action granting Channel Two Television Company's application for a minor change in the facilities of KPRC-TV, Houston, Texas. *Summary:* The Commission will determine whether the Bureau properly dismissed a petition for reconsideraton of the grant.

Video—3—*Title:* Cablevision of Chicago's notification of aeronautical frequency usage pursuant to Section 76.610 of the Commission's Rules. *Summary:* The

Commission will consider whether to issue a Notice of Apparent Liability for Forfeiture Against Cablevision of Chicago for its use of aeronautical frequencies without authorization.

Policy—1—*Subject:* Notice of Proposed Rulemaking looking toward revision of Section 73.3550 of the Commission's Rules. *Summary:* The Commission will consider its rules and policies with respect to the assignment of new and modified call signs to AM, FM and TV broadcast stations.

Policy—2—*Title:* Amendment of Part 73 of the Commission's Rules to Conform Section 73.3525 to Amendment of Section 311(c)(3) of the Communications Act of 1934, as Amended. *Summary:* The Commission will consider a conforming amendment to the Rule Section that implements Section 311(c)(3) of the Communications Act, regarding agreements to withdraw competing applications.

Policy—3—*Title:* Shared use of Broadcast Auxiliary Facilities with other Broadcast and Non-Broadcast Entities and New Licensing Policies for Television Auxiliary Broadcast Stations (BC Docket No. 81–794). *Summary:* The Commission will consider whether to adopt new rules and policies for the television auxiliary broadcast service. Among the rule changes being considered is a proposal to permit sharing of auxiliary facilities with other broadcast or non-broadcast entities.

Policy—4—*Title:* Amendment of Section 73.593 of the Commission's Rules. *Summary:* A Notice of Proposed Rule Making was issued proposing to delete the requirement that noncommercial educational FM stations could only use their subcarriers to present educational material on a non-profit basis. Instead, the Commission proposed to allow these stations the same uses permitted for commercial FM station subcarriers. The *Report and Order* discusses and resolves the issues which have been raised.

Policy—5—*Title:* Amendment of Parts 2 and 73 of the Commission's Rules Concerning Use of the Subsidiary Communications Authorizations. *Summary:* A Notice of Proposed Rule Making was issued proposing to permit FM licensees to operate subcarriers on a 24-hour-per-day basis and to permit materials of a non-broadcast nature to operate on FM subcarriers. Additionally, the *Notice* proposed technical changes that would increase the FM baseband thereby providing for an additional subcarrier. The *Report and Order* discusses and resolves the issues which have been raised.

Enforcement—1—*Title:* Petition for Issuance of Cease and Desist Order and a Petition for Immediate Issuance of Show Cause Order and Request for Immediate Field Investigation filed, respectively, by Stations WKAQ–TV and WAPA–TV, San Juan, Puerto Rico, relating to a rebroadcast agreement between Stations WKBM–TV, Caguas and WLUZ–TV, Ponce, Puerto Rico. *Summary:* The Commission will consider in a MO & O whether to permit Stations WKBM–TV and WLUZ–TV to continue operating pursuant to a rebroadcast agreement.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: March 31, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–465–83 Filed 4–1–83; 10:20 am]

BILLING CODE 6712–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, April 7, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Four Applications for Review of a Petition for Section 403 Inquiry, and two Petitions to Reopen the Record in the Miami, Florida AM radio proceeding (Docket Nos. 79–305, 79–307, 79–310 and 79–312).

Hearing—2—Application for Review of a Review Board Decision denying 11 applications for new DPLMRS authorizations in the Arizona Mobile Telephone Company *et. al.*, DPLMRS proceeding (Docket Nos. 21431 *et. seq.*).

Hearing—3—Petition for Reconsideration in the Faith Center, Inc., San Francisco, California, television comparative renewal proceeding (BC Docket Nos. 82–339 to 82–342).

Hearing 1, 2, and 3, are closed to the public because they concern Adjudication Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearing 1, and 2, March 30, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

Hearing 3, March 30, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, and Rivera voting to consider this item in Closed Session. Commissioner Sharp not participating.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: March 31, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–466–83 Filed 4–1–83; 10:20 am]

BILLING CODE 6712–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, April 6, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Branch Office Application—Ellwood Federal Savings and Loan Association, Ellwood City, Pennsylvania
Request for Extension of Time—(Proposed) Wawel, Savings and Loan Association, Wallington, New Jersey
Application for Full Trust Powers—First Federal Savings and Loan Association of the Palm Beaches, West Palm Beach, Florida
Waiver of Restriction—Thomas Sung, et al., New York, New York
Insurance of Accounts—Cheviot Building and Loan Company, Cheviot, Ohio

[No. 29, April 1, 1983]

[S–467–83 Filed 4–1–83; 3:00 pm]

BILLING CODE 6720–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 30, 1983.

TIME AND DATE: 10 a.m., Wednesday, April, 6, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Shamrock Coal Company, Docket No. KENT 80–292. (Issues include whether the judge erred in concluding that the operator violated 30 CFR 75.200 by failing to comply with its roof control plan.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

[S–469–83 Filed 4–1–83; 3:00 pm]

BILLING CODE 6735–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, April 11, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board 452-3204.

Dated: April 1, 1983.

James McAfee,

Associate Secretary of the Board.

[S-470-83 Filed 4-1-83; 3:20 pm]

BILLING CODE 6210-01-M

6

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Tuesday, April 12, 1983.

PLACE: Conference Room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (Closed pursuant to 5 U.S.C. 552b(c)(2)(6).

Selection of a Chief Administrative Officer and Secretary of the Commission

CONTACT PERSON FOR MORE INFORMATION: Ron Jensen, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268. Telephone (202) 254-3816.

[S-468-83 Filed 4-1-83; 3:00 pm]

BILLING CODE 7715-01-M

federal register

Tuesday
April 5, 1983

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare; Automobile Medical, No-Fault or Liability Insurance; ESRD Beneficiaries Under Employer Group Health Insurance

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program, Services Covered Under Automobile Medical, No-Fault, or Liability Insurance; Services Furnished to ESRD Beneficiaries Who Are Covered Under Employer Group Health Insurance

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth policies and procedures on coverage of services that are reimbursable under automobile medical, no-fault, or liability insurance, and services to end-stage renal disease (ESRD) beneficiaries who are also covered under employer group health plans.

The regulations are necessary to implement section 953 of the Omnibus Reconciliation Act of 1980 and section 2146 of the Omnibus Budget Reconciliation Act of 1981. The first of these sections excludes from Medicare coverage any services for which payment has been made or can reasonably be expected to be made under an automobile or liability insurance policy or plan or under no-fault insurance. The second section makes Medicare benefits secondary to benefits payable under an employer group health plan for services furnished to ESRD beneficiaries during a specified period of up to 12 months.

The intent is to conserve Medicare funds and prevent duplicate payments by Medicare.

EFFECTIVE DATE: These regulations are effective May 5, 1983.

FOR FURTHER INFORMATION, CONTACT: Herbert Pollock, (301) 594-4978.

SUPPLEMENTARY INFORMATION:

Background

Proposed rules published on May 17, 1982 (47 FR 21103) dealt with three basic issues. Those issues, extensively discussed in that preamble, were—

1. Whether Medicare benefits would be secondary even when the private insurance policy or plan makes its benefits secondary to Medicare or otherwise excludes or limits its payments to Medicare beneficiaries.

2. Whether to deny Medicare payments routinely or pay and recover later from the private insurer.

3. Whether the period of secondary benefits for ESRD recipients would be 12 months or less.

Broadly speaking, we proposed—

1. To make Medicare secondary regardless of whether the insurance policy or State law contains a Medicare nonduplication clause.

2. To pay and recover later—

- When the services are covered under liability insurance;
- When payment of benefits under automobile medical or no-fault insurance will be delayed, for instance, because the claim is contested;
- When the intermediary or carrier knows from experience or obtains information indicating that employer plan payment for ESRD beneficiaries will be delayed.

3. To limit to less than 12 months the period during which Medicare benefits will be secondary, if entitlement based on ESRD is delayed because of the 3-month waiting period imposed by the statute or because the application for Medicare was not filed timely.

The first proposal was based on our belief that it is the only interpretation consistent with the cost-saving objective of the section 953 amendments and the clear intent of the section 2146 provisions. In the preamble to the NPRM we quoted extensively from the legislative history, including statements such as the following:

> Under Title XVIII, Medicare will have residual rather than primary liability for the payment of services required by a beneficiary as a result of an injury or illness sustained in an auto accident where payment for the provision of such services can also be made under an automobile insurance policy * * *
>
> The bill changes the benefit coordination arrangements between the Medicare end-stage renal program and any other health benefits * * * by making any private coverage primary to Medicare for an initial 12 months after the beneficiary is determined eligible * * *

With respect to the second proposal, the different handling of benefits for services covered under different types of private insurance is justified because—

- Payments under automobile medical or no-fault insurance are usually subject to State laws that require prompt payment and are seldom delayed unless a claim is contested;
- Under liability insurance, payment is usually delayed because of the need to obtain a settlement or judgment;
- The law and legislative history for the ESRD amendment provides that Medicare pay and recover later only if payment under the employer plan will be delayed.

The third proposal is consistent with basic ESRD statutory provisions that—

- Impose a 3-month waiting period after dialysis is begun (waived if a patient begins training for self-dialysis before the end of the third month); and
- Limit to 12 months the retroactivity of an application for Medicare benefits.

Discussion of Comments

We received 65 letters of comment—21 from insurance departments, associations, and companies; 14 from ESRD facilities and practitioners; 16 from health facilities and organizations; and 14 from miscellaneous sources, including 1 city, 2 law firms, and several State officials and departments.

The insurance industry representatives were primarily interested in automobile and liability insurance. Only three commented on the ESRD provisions. Seven of the 16 health facilities and organizations focused their comments on ESRD; and 3 on automobile and liability insurance, while 2 expressed concerns about both. The remainder simply objected to or supported the proposal in general terms.

One Congressman, one Governor, one Mayor, and four State agencies commented on automobile and liability insurance. Two State agencies wished to know how recoveries would be handled if Medicaid, as well as Medicare, had paid for services for which there is third party liability. The two law firms were concerned, respectively, with no-fault and liability insurance. The rest of the respondents in the miscellaneous group were generally supportive of the proposal but suggested specific changes.

The specific comments and our response to them are discussed below:

A. Automobile Medical, No-Fault, and Liability Insurance

1. General provisions (§ 405.322):

Proposal: This section defined terms, specified that the regulation would apply to services required because of accidents that occurred on or after December 5, 1980 (effective date of the statutory amendments), specified that if payment was actually *made* under either automobile or liability insurance, Medicare payment would be denied or, if already made, would be recovered, and provided for waiver of recovery if—

- Payment from private insurance was received by the beneficiary within 60 days after publication of the final regulations; or
- The amount involved did not warrant pursuit of the claim.

Comments: Uninsured motorist insurance is first party coverage rather than a form of liability insurance and should be removed from definition.

- Add "personal injury protection" to the definition of automobile medical or no-fault insurance.

Response: Although "uninsured motorist insurance" is separately defined, it is appropriate to include the term in the other definition because the handling of uninsured motorist claims is similar to the handling of liability claims. The fault or negligence of the uninsured party must be established, the claim can be for pain, suffering, and other losses in addition to medical expenses, and the claim is settled or adjusted after negotiation between the injured party (or the party's attorney) and the insurance company. "Personal injury protection" was added to the definition of automobile medical or no-fault insurance.

Comments: Make the regulations effective for accidents that occur after final regulations are published.

• Make clear that recovery will not be sought retroactively.

Response: For discussion of these and other comments regarding effective dates, see the second comment under item A–2.

Comment: Exclusion should not apply to services furnished by HMOs because some States prohibit HMOs from filing claims against or coordinating benefits with nongroup insurers. If the regulation does apply to HMOs, they should not be burdened with the responsibility of filing insurance claims on behalf of members.

Response: Administrative instructions will provide procedures for entities that furnish services and are unable to bill insurers.

Comment: Making the no-fault insurance primary may deprive the patient of a source of payment for Medicare cost sharing expenses and services not covered by Medicare.

Response: With the no-fault insurance primary, Medicare will be available to help pay for the remaining covered expenses. However, it is true that the elimination of duplicate Medicare payments will eliminate windfalls and may require the beneficiary (or the no-fault insurer) to pay for some sevices that are not covered under Medicare.

Comments: • Put a percentage limit on Medicare's right to recover from an insurance settlement.

• Specify that HCFA may participate in compromise settlements (in the sense of reducing the amount of recovery in proportion to the compromise).

Response: The statute requires that Medicare be reimbursed for all payments it made for services reimbursable under an automobile or liability insurance policy or plan. The amount to be recovered would be based on the amount obtained by the beneficiary regardless of how it was obtained.

Comment: The regulation should state that HCFA is bound by any decision of an arbitrator or a judge's decision in a suit for declaratory judgement.

Response: HCFA cannot bind itself to abide by every arbitration decision and declaratory judgement to which it is not a party. There might be some that require further action. The court may lack jurisdiction to decide disputes involving Medicare coverage.

Comment: The last sentence of § 405.322(c) requires HCFA to file an action against the insurer for recovery of any erroneous payment to a beneficiary, provider, or supplier, even if the insurer has paid. Language in paragraph (d)(1) reaches an opposite conclusion and indicates that HCFA would recover erroneous payments from the beneficiary, provider, or supplier, not the insurer, where the insurer has previously paid.

Response: We have deleted "and HCFA may bring an action against the insurer" from the last sentence of § 405.322(c). This was a drafting error. HCFA would not attempt recovery from an insurer that has made its payment.

Comment: Have the beneficiary grant HCFA lifetime subrogation rights when applying for Medicare or require the beneficiary to assign such rights to HCFA when endorsing each benefit check.

Response: The Medicare law does not specifically authorize HCFA to require beneficiaries to assign subrogation rights to HCFA routinely as a condition of entitlement or as a condition of payment for otherwise covered services. However, if a conditional payment is to be made for services for which payment can reasonably be expected under automobile or liability insurance, HCFA may require the beneficiary to assign his or her rights against the individual responsible for the accident or the insurer.

Comment: Thirteen of the commenters approved the exclusion of services reimbursable under automobile or liability insurance and two considered that a person covered by both ought to have a right to both payments.

Response: The statute prohibits duplicate payments by Medicare.

Comment: For administrative convenience, establish a specific dollar tolerance for purposes of waiving recovery of Medicare payments.

Response: Such a tolerance amount may be considered for inclusion in administrative instructions.

2. Special provisions: Services for which payment can reasonably be expected under automobile medical or no-fault insurance. (§ 405.323)

Proposal: This section provided that—

1. Effective 60 days after publication of final regulations, Medicare would deny payment for services covered under automobile medical or no-fault insurance even though the policy or State law made the private insurance benefits secondary to Medicare benefits.

2. Medicare could make a conditional payment if—

• The claim filed by the beneficiary, provider, or supplier was contested or, for any other reason, there will be a substantial delay in making insurance payments; or

• The beneficiary failed to file a claim because of physical or mental incapacity.

3. When a conditional payment is made—

• If the beneficiary receives an insurance payment, he or she must reimburse the program;

• If the insurer does not pay, HCFA may bring action against the insurer and the beneficiary must cooperate in that action;

• As a prerequisite for conditional payment, HCFA may require the beneficiary to authorize it to pursue the beneficiary's rights if the beneficiary does not and to promise to cooperate in HCFA's action;

• The amount to be recovered in HCFA's action will not exceed the amount of the conditional payment;

• At the time a conditional payment is made, the intermediary or carrier will notify the beneficiary of the obligation to refund that payment;

• Failure to notify does not relieve the beneficiary of the obligation to refund the conditional payment.

Comments: Twenty commenters objected to making Medicare secondary to automobile medical and no-fault insurance, when the private insurance policy or State law makes Medicare primary, on the grounds that—

• The statute prohibits duplicate payments but does not prohibit Medicare payment where the automobile policy provides coverage that is secondary to Medicare by law or contract.

• The shifting of insurance costs to the private plans will result in increased automobile premiums for the elderly.

• The regulation would lead to unfair discrimination against older drivers since their Medicare benefits would be reduced while the benefits of elderly persons who do not drive would not be reduced.

• The proposed regulation violates the McCarran-Ferguson Act which provides, in part, that no Federal law shall be construed to invalidate, impair, or supersede any State law for

regulating insurance unless the Federal statute specifically relates to the business of insurance.

Response: Private insurance companies and State legislators cannot dictate the conditions for coverage of services under the Medicare program. It is Congress that has the power to set those conditions, to determine the limits and the timing of Medicare payments, and to provide for recovery of those payments when they are incorrectly or improperly made. To conclude, as some commenters suggest, that State laws and private insurance contracts can make Medicare the primary payer, despite contrary Congressional intent, would lead to the clearly erroneous conclusion that State laws and private parties can dictate Medicare expenditures. That conclusion would also be contrary to the cost reduction purpose of the amendments. If those amendments were interpreted to apply only when the insurance contract or State law accepted primacy, all such contracts and laws could be changed to make Medicare primary payer.

As discussed in the notice of proposed rulemaking, the legislative history of section 2146 of the Omnibus Budget Reconciliaton Act of 1981 noted that most group health policies covering ESRD presently contain provisions that make the policies' coverage secondary to Medicare and expressly stated that section 2146 was intended to reverse this priority for the first 12 months. To carry out this intent, Congress used virtually the same language that it used a year earlier in enacting section 953 relating to automobile, liability, and no-fault insurance. This action confirms our view that Congress intended both section 2146 and section 953 to make Medicare coverage secondary to insurance plans.

We recognize that private insurance rates may increase as a result of this legislation. However, except in some no-fault States, Medicare beneficiaries can retain full Medicare benefits and minimize additional cost by reducing their automobile medical coverage.

In the preamble to the proposed rules, we expressed the opinion that the amendments to section 1862(b) of the Act related to the business of insurance and did not, therefore, contravene the provisions of the McCarran-Ferguson Act.[1] We continue to hold that opinion. We also conclude that the statute and the regulation merely change the order of Medicare payments when private insurance is available. This change does not violate the McCarran-Ferguson Act (42 U.S.C. 1011 through 1015).

Comment: Exclusion should not apply retroactively because this unfairly obligates insurance companies to pay for services that were not reflected in premium rates for contracts that were written before the effective date of the amendments.

Response: Congress specified that Section 953 was to be effective on the date of enactment, December 5, 1980. This admitted of two interpretations: application to services furnished after that date, regardless of when the accident occurred; or application to services related to accidents occurring on or after that date. In recognition of the problems posed for private insurers by the lack of lead time, we took the latter more liberal approach. Section 1862(b) of the Act precludes Medicare payments that duplicate payments made under automobile or liability insurance. However, the exclusion of services for which payment can reasonably be expected under automobile or liability insurance is contingent on regulations. In compliance with section 1862(b), HCFA will recover any Medicare payments that duplicate insurance payments received by a provider for services required as a result of accidents that occurred on or after December 5, 1980. However, in recognition of the special problem for automobile medical and no-fault insurance contracts that provide payments secondary to Medicare, we have made the exclusion applicable to services furnished 60 or more days after publication of these final regulations, as indicated in § 405.323(a). The regulations also specify (in § 405.322(d)(2)) that HCFA will not recover any payment actually received by a beneficiary up to 60 days after final regulations are published. Thus, insurers are not required to reopen any claims which they have already settled and HCFA will take no action against insurers in cases where the insurer has made its payments to Medicare beneficiaries.

We believe these provisions minimize adverse effects on private insurers and recipients of insurance payments to the extent possible within the requirements of the statutory effective date.

Comment: Rules should define "substantial delay" for purposes of qualifying for conditional payment in automobile medical or no-fault cases and should describe procedures for claiming "delay".

Response: Program instructions will deal with this aspect and will take into account variations in automobile insurance requirements and practices in various jurisdictions.

Comment: The requirement that the "carrier" must notify the beneficiary of responsibility to refund Medicare payment could be misinterpreted to mean the private insurance carrier.

Response: This provision has been clarified by inserting "Medicare" before "intermediary or carrier".

3. Special provisions: Services for which payment can reasonably be expected under liability insurance. (§ 405.324)

Proposal: This section—

- Provided that a conditional Medicare payment may be made if the services were required because of an injury or illness allegedly caused by another party and the beneficiary has filed, or has the right to file, a liability claim; and
- Imposed the same rules that apply to conditional payments under § 405.323.

Comment: Questioned HCFA's right to take direct action against an insurer if HCFA made a conditional payment and the insurer does not eventually pay the beneficiary. Aside from the fact that direct action against insurers is permitted in only three States, any rights HCFA might have against an insurer are derivative from the beneficiary. Thus, HCFA stands in the shoes of the beneficiary and the action must be brought in his or her name and all defenses the insurer has against the beneficiary's claim would apply. The proper defendant is the responsible party rather than the insurer. If HCFA maintains that it has the right of direct action against insurers, it should exercise that right only if timely notice has been given to the insurers. (This comment was directed at automobile as well as liability insurance. Our response also deals with both aspects.)

Response: The statute gives HCFA the right to seek reimbursement from the beneficiary, the insurer, or the responsible party whenever Medicare has paid for services covered under automobile or liability insurance. Therefore, HCFA's right of recovery is independent of that of the beneficiary. With respect to liability claims, if a direct action were necessary, HCFA would usually bring the action against both the insurer and the responsible party. If it were necessary to name only the insurer in a suit, and this was contrary to State law, the Federal statute would prevail, since the suit would be necessary to carry out the substantive provisions of section 1862(b)

[1] In general, this Act reserves to the States the right to regulate the business of insurance and provides that no Federal law shall be construed to invalidate, impair, or supersede any State law regulating insurance unless the Federal statute specifically relates to the business of insurance.

in an economical and efficient manner. HCFA's right of direct action against insurers is not conditioned on advance notice.

Comment: Conditional payment in liability cases should be mandatory rather than optional.

Response: We anticipate that conditional Medicare payment will be made routinely in most instances.

Comment: HCFA should recover conditional payments from private insurers (with interest) rather than from providers of services.

Response: The reference in § 405.322(d) to recovery of conditional payments from providers refers only to situations in which the provider received payment both from Medicare and from the automobile or other liability insurer. Sections 405.323(c) and 405.324(a) have been revised to make clear that conditional payments made to providers or suppliers may be recovered from them if they also received payment from automobile medical, no-fault, or liability insurers.

Comment: Several commenters expressed concern, made suggestions, or raised specific questions about the administrative procedures or changes required to implement the rules.

Response: These comments will be considered in developing operating instructions and those instructions will answer the questions and incorporate the viable suggestions.

4. Effect on benefit utilization and deductible (§ 405.325).

This section provided that services for which Medicare payment is not made (or if made is later recovered) because benefits are paid under automobile medical, no-fault, or liability insurance—

- Will not be charged against the Part A benefits available to the beneficiary; and
- Cannot be credited toward the Medicare Part A or Part B deductible.

No comments were received on those provisions.

B. *ESRD beneficiaries who are also insured under employer group health plans.*

1. Scope and applicability (§ 405.326):

Proposal: This section defined the terms "employer" and "employer group health plans" and made clear that the provisions of §§ 405.327 through 405.329 apply to services furnished to individuals who are entitled to Medicare solely on the basis of having end-stage renal disease and are also insured under an employer plan.

Comment: The title of the regulation should be modified to indicate that the portion dealing with services covered under employer health plans applies only to ESRD patients.

Response: The title of the final regulation was modified as suggested.

Comment: The definition of "employer group health plan" conflicts with the statute in that it requires that the plan provide service on an "expense incurred" basis. This would exempt employer plans providing care on other bases, such as the prepayment system followed by HMOs.

Response: The phrase "on an expense incurred basis" has been deleted.

Comment: Section 405.326(a) appears to limit application to persons "insured" under an employer group health plan. The statutory provision is broader in its scope than the regulation.

Response: Section 405.326(a) has been changed to substitute "covered" for "insured" and the same change has been made in the centered heading preceding § 405.326.

2. Medicare benefits secondary to employer group health plan benefits (§ 405.327).

Proposal: This section—

- Established October 1, 1981 as the effective date for making Medicare benefits secondary to employer plan benefits;
- Specified a period of up to 12 months during which Medicare would be secondary and gave examples of how the number of months would be determined in different situations;
- Made clear that Medicare would be secondary even if the employer plan states that its benefits are secondary to Medicare; and
- Specified that during the period when Medicare benefits are secondary, Medicare would make primary payments for services not covered under the employer plan and secondary payments to supplement employer plan payments that cover only a portion of the charge for a service.

Comment: Objects to effective date of October 1, 1981 because HCFA has not yet published final regulations and retroactive implementation would impose administrative and financial hardship on insurance companies and HMOs.

Response: The statute specifies that the effective date of the provision is October 1, 1981. This could have been interpreted to apply to any individual—

- Who was in the specified 12-month period on October 1, 1981;
- Who became entitled to Medicare on or after October 1, 1981; or
- Whose 12-month period began on or after October 1, 1981. We chose the last of these as the most equitable to insurers and least burdensome to providers. Under this interpretation, because of the 3-month waiting period, Medicare payments would generally not be affected before January 1, 1982. The law provides no basis for implementing the provision on a prospective basis or for relating the effective date to the expiration of existing health plan contracts, as was suggested.

Comment: To minimize provider costs, HCFA (rather than providers and facilities) should be responsible for recovery from employer plans for the period from October 1, 1981 until the effective date of regulations, and for recovering conditional payments on an ongoing basis.

Response: Providers are in a better position than HCFA to bill employer plans. They have in their records the information needed to do such billing, i.e., information identifying the private plan that was responsible for providing care during the period before the individual's Medicare entitlement was established and information which formed the basis for determining the start of the period in which Medicare is secondary.

Comment: The statute does not support the provision that makes Medicare secondary payer even if the employer plan states that its benefits are secondary to Medicare's or otherwise excludes or limits its payments to Medicare beneficiaries. Under the statute, Medicare is secondary only if payment has been made by an employer plan or the Secretary determines that payment will be made by such a plan. Accordingly, if the employer plan excludes benefits for services covered under Medicare, the Secretary cannot determine that payment will be made.

Response: It is clear that Congress intended to make Medicare secondary payer to all employer group health plans. In this regard the Senate Finance Committee Report No. 97-139, July 1, 1981, contains the following passage on page 469:

> The bill changes the benefit coordination arrangements between the Medicare end-stage renal program and any other health benefits * * * by making any private coverage primary to Medicare for an initial 12 months after the beneficiary is determined eligible for Medicare coverage under the end-stage renal provisions * * *

Since virtually all employer health plans already provide benefits that are secondary to Medicare, the suggested interpretation would cause any Medicare savings from the ESRD amendment to be negligible. This was not the intent of the Congress, as evidenced by the cited report language and the savings estimates accompanying the Committee Report.

Comments: The regulation would reduce total benefits for ESRD beneficiaries.

Response: The regulation will not adversely affect ESRD beneficiaries on a short-term basis because Medicare will be primary payer for services the employer plan does not cover, and secondary payer for services for which the employer plan does not pay in full. Beneficiaries could be adversely affected if the employer plan contains annual or lifetime limits on the amount of benefits payable. Under this type of plan, beneficiaries would be depleting their lifetime maximum at a faster rate during the period in which Medicare is secondary. As a result, when Medicare is again primary, less group health plan benefits will be available for amounts not covered by Medicare. This result is a consequence of the statute which mandates that Medicare be secondary.

Comment: The regulation will increase the cost of employer health plans, especially if one person in a small group has ESRD.

Response: Increases in the cost of employer plans may result because the statute mandates that Medicare benefits be secondary for up to 12 months.

Comment: The regulations should state explicitly that there is no coordination of benefits for equipment and services covered by the 100 percent reimbursement agreement. (Commenter was referring to the provisions of § 405.438 of current regulations.)

Response: The law does not authorize exemption of particular services or modes of reimbursement. The 100 percent reimbursement agreement is optional. Furthermore, the facility may decide, on a case-by-case basis, which of its home health patients use dialysis machines that are reimbursed at 100 percent. This option is not affected by the secondary payer regulation. If the facility determines that it wants to furnish equipment under the 100 percent agreement, it may do so, even through Medicare is secondary payer. Administrative instructions will explain how to handle this contingency.

Comment: The term "self-dialysis" in § 405.327(c)(1) should be changed to "home dialysis".

Response: Section 226A(c)(1) of the Act provides for waiver of the 3-month waiting period for patients who initiate "self-care dialysis training" before the end of the third month after beginning dialysis.

Comment: The regulations will necessitate additional bill processing time by contractors and a substantial increase in administrative costs.

Response: Some increase in processing time is unavoidable. However, every effort is being made to develop administrative instructions that require a minimum of additional processing steps. We expect the cost of implementing the provision to be small in comparision to the savings of Medicare funds.

Comment: The provision of § 405.327(f), making Medicare secondary in a subsequent period of ESRD entitlement, is not authorized by the statute.

Response: Based on the statutory definition of the 12-month period during which Medicare may be secondary payer, a new period begins if an individual's entitlement to Medicare ended and later the individual became reentitled because of ESRD.

Comment: The regulations should provide for Medicare to be secondary to employer health plans for all beneficiaries, not just ESRD beneficiaries.

Response: The statutory amendment implemented by these rules limits application of this provision to ESRD beneficiaries. (See below concerning recently enacted legislation that applies to other beneficiaries.)

3. Amounts of secondary Medicare payment (§ 405.328).

Proposal: This section—

- Set forth the limitations on Medicare secondary payments for services reimbursed on a cost basis, on a charge basis, and on a fixed rate basis;
- Gave an example of how to compute the secondary payment for services reimbursed on a charge basis; and
- Specified the effect of secondary Medicare payments on utilization of Medicare Part A benefits and on the Part A and Part B deductibles.

Comment: Private plans generally do not have Medicare's special ESRD comprehensive reimbursement provisions. The regulations should show how each special reimbursement provision will be treated in billing private plans and Medicare.

Response: In the ESRD program there are cases of reimbursement on a comprehensive rate basis for services that would probably be covered on a fee-for-individual-service basis by employer plans. Examples include, but are not limited to, the alternative reimbursement method for physicians' services, the outpatient maintenance dialysis and home dialysis treatment rates, the comprehensive payments for surgeons' services in connection with a renal transplantation, and the kidney acquisition charge for kidney transplants. In these cases, the Medicare program considers the unit of service to be all of the items and services that are collectively covered by the comprehensive payment. If the employer plan pays for any of the individual services that are included under any Medicare comprehensive payment, those amounts would be considered in relation to the Medicare comprehensive payment. Medicare's secondary payment would be determined in accordance with § 405.328(c) for services of providers and renal dialysis facilities, and § 405.328(a) for monthly physician payments and transplant surgeon payments. Section 405.328(c) has been revised to clarify that what was referred to as "fixed rate" reimbursement refers to reimbursement on a cost-related basis, that is, reimbursement to providers and dialysis facilities on a basis other than reasonable cost.

Comment: The regulation permits a combined Medicare and employer plan payment that exceeds the reasonable charge.

Response: Section 1862(b)(2)(D) of the Act and the Senate Budget Committee Report (Report No. 97–139, page 469f) provide that the combined payment by Medicare and the employer plan may exceed the reasonable charge, provided the combined payment does not exceed the plan's allowable charge. However, section 1842(b)(3)(D) provides that if a physician or other supplier accepts assignment, the combined payment may not exceed the reasonable charge. The regulation is consistent with these statutory provisions.

Comment: The regulations encourage in-center dialysis because physicians could receive higher reimbursement by billing employer health plans for in-center dialysis services than they receive under Medicare's alternative reimbursement method for such services. This defeats Medicare's objective of equalizing in-center and home physician rates as an incentive for home dialysis.

Response: The regulations do not require that a physician who elects the alternative reimbursement method accept assignment and do not limit total reimbursement from all sources to the Medicare reasonable charge. Thus, it is possible for a combined payment to exceed the alternative reimbursement rate under the reimbursement method set forth in § 405.542(b). We do not, however, see any significant impact on home dialysis incentives. We believe that the alternative reimbursement rates for dialysis compare favorably with the total payment obtainable by billing individual services to private plans. We also believe that the simplicity of this billing method is an added advantage.

Comment: If an employer plan pays more than reasonable costs, would the regulations require the provider or facility to reimburse Medicare for the difference? This would be an inappropriate subsidization of the Medicare program by the private sector.

Response: The payment formula in the regulations describes the amount that Medicare pays when there is Medicare liability. If the employer plan pays in full, Medicare is not involved at all. A provider or facility would never be required to reimburse Medicare unless Medicare had made a payment. The fact that an employer plan paid an amount that exceeds the Medicare reasonable cost does not affect this rule.

4. Conditional payments and recovery of payments (§ 405.329).

Proposal: This section—

- Specified that the Medicare intermediary or carrier would pay conditional primary benefits if it knew from experience or ascertained that the employer plan's payments in general are substantially less prompt than Medicare's;
- Required the beneficiary, provider, or supplier to file a claim with the employer plan and, to the extent that the plan paid the claim, to reimburse Medicare up to the amount paid in excess of its obligation as secondary payer;
- Established HCFA's right to bring action against the employer plan if it does not pay, and the beneficiary's obligation to cooperate in HCFA's action; and
- Made clear that HCFA could, as a prerequisite to making a conditional payment, require the beneficiary to authorize it to pursue the beneficiary's right against the employer plan if the beneficiary does not and to promise to cooperate in HCFA's action.

Comment: Medicare should pay primary benefits first and later recover from the employer plan since language of the Congressional Report indicates that this was the intent of Congress. This approach would avoid provider and facility cash flow problems and patient anxieties because of uncertainty as to what the private insurer will pay for home dialysis and transplantations.

Response: Congress clearly intended that Medicare not pay first when there is a reasonable expectation that the employer plan will pay as promptly as Medicare. Congress also intended that implementation of this provision result in substantial savings for the Medicare trust funds. If Medicare paid primary benefits initially, the intended savings would not be realized because it would be difficult and costly to recoup from various employer plans.

Medicare will be primary payer for items and services not covered by the employer plan and will make conditional primary payments if the intermediary or carrier determines that the employer plan will not pay promptly. Providers and dialysis facilities claim payment from private insurers from the onset of the condition, during the 3-month waiting period for Medicare entitlement and during any additional time it takes to establish Medicare entitlement for the individual. We, therefore, consider it reasonable to assume that the payment arrangements established before the individual's Medicare entitlement are sufficient to effect continuity of payment. Continuation of that arrangement, during the period for which Medicare benefits are secondary, should not be disruptive.

Comment: The regulation should define the term "prompt" as it relates to the timeliness of payments by employer plans.

Response: Guidelines for determining whether an employer plan pays as promptly as Medicare are more appropriate for administrative instructions than for regulations.

Comment: The provision for conditional Medicare payments may encourage delays in payment by employer plans.

Response: The statute provides that Medicare pay conditional benefits if the employer plan does not pay promptly.

Comment: Objects to the requirement (for conditional Medicare benefits) that the beneficiary must cooperate in any legal action HCFA takes against the employer; feels that this may adversely affect the individual's relationship with the employer.

Response: The beneficiary's cooperation is needed to facilitate the recovery of conditional Medicare benefits paid for items or services which are the primary responsibility of an employer plan. HCFA may have no way to recover those payments unless the beneficiary cooperates in HCFA's action against the employer. In most cases, beneficiaries would be required only to file a claim with the employer plan or to authorize HCFA to pursue the beneficiary's rights against the employer plan.

5. Miscellaneous comments.

Comment: The regulation does not address the changes made in the Internal Revenue Code.

Response: The NPRM implements only that portion of the statute which concerns Medicare as secondary payer to employer plans. The statutory changes in the tax law will be implemented by the Internal Revenue Service.

Comment: The law provides an incentive for employers to discriminate against ESRD patients. The regulations should specify that the Secretary will promptly investigate complaints about job discrimination resulting from this provision, as required by the Congressional Conference Committee Report. (H.R. Report No. 97-208, Book 2, 97th Congress, 1st session, 955f (1981).)

Response: The requirement that Medicare be secondary payer for up to one year in the case of ESRD beneficiaries is mandated by a statutory amendment. Congress recognized that this provision might cause employers to discriminate against employees with end-stage renal disease (or employees with dependents having this condition). It made changes in the Internal Revenue Code designed to discourage discrimination in benefits in employer health plans. It also recognized that employers might seek to discourage employment of individuals who have (or whose dependents have) ESRD in order to reduce their health plan costs. The Conference Committee language was addressed only to the Secretary, and it is not necessary to include it in the regulations. However, the Department is aware of the concerns expressed by patients and the professional community and will ensure that complaints are promptly investigated.

Effective Dates

Automobile and Liability Insurance

The regulations apply to services required because of accidents that occur on or after December 5, 1980, with the following exceptions:

- Duplicate Medicare payments will not be recovered if payment under automobile or liability insurance is received by the beneficiary at any time before the 60th day after these regulations are published.
- As indicated in the Effective Date statement of this preamble, services for which payment can reasonably be expected under automobile insurance will be excluded only if the services are funished on or after the 60th day after the regulations are published.

Employer Group Health Plans (ESRD Beneficiaries)

Medicare benefits are secondary to employer plan benefits for months after September 1981.

Related Legislation

Section 116 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, enacted September 3, 1982)

contains provisions similar to those of section 2146 of Pub. L. 97-35, but applicable to beneficiaries who are entitled to Medicare because of age rather than ESRD. Under section 116, Medicare may not pay for services that are furnished to an employed beneficiary (or his or her spouse) who is between the ages of 64 and 70, to the extent that payment has been made or can reasonably be expected to be made for those services under an employer group health plan.

The provisions of section 116 are effective on January 1, 1983 and are being implemented by separate regulations.

Related Regulations

On December 6, 1982 we published regulations (47 FR 54811) providing for assessment of interest on overpayments and underpayments to providers and suppliers of Medicare services. Under a new § 405.376, HCFA will collect interest on overpayments and pay interest on underpayments that are outstanding more than 30 days after a final determination has been made. Under the regulations published today, any Medicare payment in excess of the proper payment for services that are covered under automobile or liability insurance or an employer group health plan are considered overpayments and as such are subject to recovery. Overpayments to providers and suppliers are subject to interest under § 405.376. However, neither the Medicare law nor current HCFA policy provides for assessing interest on overpayments to beneficiaries.

Impact Analysis

A. Executive Order 12291

This Executive Order requires agencies to prepare and publish a regulatory impact analysis for any "major rule", that is a rule that has an economic impact of $100 million or more, or meets other threshold criteria defined in section 1(b) of the Order. In the NPRM, we estimated the impact of each of the two statutory provisions to be implemented by the proposed rules and determined that neither provision would affect the economy by $100 million or more. These estimates are discussed in detail below. For the final rule, we re-estimated savings for both provisions. The revised automobile liability insurance provision estimate differs from the previous estimate in that we have assumed a somewhat longer litigation and collection process, a later effective date and a change to the fiscal year 1984 budget assumption. These changes will result in no savings in fiscal year 1983 and 1984 and savings of $22 million in fiscal year 1985. The new employer group health plan estimate differs in that we have assumed a later effective date and have incorporated the new fiscal year 1984 budget assumptions. The revised saving estimates are now $10 million in fiscal year 1983 and $45 in fiscal year 1984. We also have revised our estimate of increased revenues from recoveries of conditional Medicare payments under this provision to $10 million in fiscal year 1984. We received two comments that questioned the validity of our estimates noted in the NPRM.

1. *Automobile Liability Insurance Provision.* In the NPRM analysis, we estimated that these provisions would result in program savings of $9 million in FY 1983 and $39 million in FY 1984. As noted above, we now expect no savings to result from this provision until FY 85. Savings of $22 million under this provision will be realized in FY 85 as a result of Medicare benefits being secondary to automobile and liability insurance.

One commenter suggested that a better measure of impact woud be the premium increases which they estimated at $81 million in FY 1984, for seven of the ten no-fault States. We believe the commenter's estimate is subject to error because of the small and non-random sample from which it was extrapolated. If we accept that estimate, and add to it our current estimate of no savings in FY 83, the impact will not exceed $100 million. However, in any case a regulatory impact analysis is not required because the impact is caused by the statutory amendment and not by the implementing rules.

2. *Employer Group Health Plans Provision.* For this provision we estimated, in the NPRM, program savings of $20 million in FY 1983 (now $10 million) and $55 million in FY 1984 (now $45 million). These savings would result from limiting payment for services that are furnished to beneficiaries entitled solely on the basis of end-stage renal disease (ESRD) and who are also covered by employer group health plans. We also anticipated in the NPRM increased revenues of $15 million in FY 1984 (now $10 million) from recoveries of conditional Medicare payments.

One commenter suggested that our estimate was high. We reviewed our original estimate and find no reason to change it for substantitive reasons, although we have made changes for the reasons noted above. In any case, since the economic impact is caused by the statutory amendment, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to determine whether a proposed rule has a significant impact on a substantial number of small entities. In the NPRM, we stated that neither provision was likely to result in a significant impact on a substantial number of small entities. We estimated a premium volume of $87 billion in FY 1984, for both property-casualty premiums and group health premiums, against increased outlays of $109 million. We believe that summarizing both categories in a single comparison may have been confusing. We received three comments on this aspect.

1. *Automobile Liability Insurance.* One commenter suggested that the correct premium volume to use for assessing impact was $18.6 billion, representing the 1980 national private passenger automobile liability insurance premium volume. We have examined several sources of insurance data, and conclude that this figure understates relevant premium volume.

In the NPRM, our estimate of total premium volume for FY 1984 included $39 billion for automobile liability insurance. We estimated that program savings of $39 million (now $0) would represent .1 percent (now 0 percent) of total premium volume for that year. However, increased outlays of $22 million in FY 1985, will not have, on average, a significant impact on the affected companies. Furthermore, as stated in the NPRM, this loss can be offset by adjusting premiums.

2. *Employer Group Health Plans.* Of the projected premium volume of $87 billion in FY 1984, $48 billion is associated with these group health plans. The current estimated savings of $45 million for FY 1984 equals .2 percent of the total premium volume. Again, increased outlays of $45 million will not constitute a significant impact, on average, on companies affected by this provision.

One commenter stated that stringent State laws would make premium adjustment difficult. Although it may delay adjustment, State regulation does not preclude premium increases based on legitimate reasons, such as the changes made by the statutory amendments that these rules implement.

Another commenter stated that this provision will also have a significant impact on Medicare carriers and intermediaries. Since these entities receive full reimbursement for their costs, the cost impact of these provisions will fall on HCFA and not on intermediaries and carriers.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), Endstage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

In 42 CFR Part 405, Subpart C is amended as set forth below:

A. The table of contents is revised to reflect the insertion of undesignated centered headings and the addition of new §§ 405.322 through 405.329, and to revise the authority statement as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

General Provisions

Sec.
405.301 Scope of subpart.
405.310 Types of expenses not covered.
405.310–1 Nonreimbursable expenses; conclusive effect of PSRO determinations on claims payment.

General Exclusions

405.311 Nonreimbursable expenses; individual has no legal obligation to pay for items or services.
405.311a Nonreimbursable expenses; items or services funished by a Federal provider of services or other Federal agency.
405.311b Nonreimbursable expenses; items or services which a provider or other person is obligated to furnish at public expense under a law of, or contract with, the United States.
405.312 Nonreimbursable expenses; items or services paid for by governmental entity.
405.313 Nonreimbursable expenses; items or services not provided in the United States.
405.314 Nonreimbursable expenses; items or service required as a result of war.
405.315 Nonreimbursable expenses; charges imposed by immediate relatives or members of the beneficiary's household.

Exclusion of Services Covered Under Workers' Compensation

405.316 Nonreimbursable expenses; payment for services made under workmen's compensation law.
405.317 Effect of workmen's compensation payment.
405.318 Responsibility of the individual concerning workmen's compensation payment.
405.319 Responsibility of intermediary where there is a possibility of workmen's compensation coverage.
405.320 Effect of lump-sum settlement and final release.
405.321 Apportionment of a lump-sum compromise settlement of a workmen's compensation claim.

Exclusion of Services Covered Under Automobile Medical, No-fault, or Liability Insurance

405.322 Services covered under automobile medical or no-fault insurance or any liability insurance: General provisions.
405.323 Special provisions: Services for which payment can reasonably be expected under automobile medical or no-fault insurance.
405.324 Special provisions: Services for which payment can reasonably be expected under liability insurance.
405.325 Effect on benefit utilization, deductibles, and coinsurance when services are payable under automobile medical, no-fault, or liability insurance.

Limitations on Payment for Services to End-stage Renal Disease Beneficiaries who are Covered Under Employer Group Health Plans

405.326 Scope and applicability.
405.327 Period of secondary medicare payment.
405.328 Amount of secondary medicare payment.
405.329 Conditional payments and recovery of payments.

Payment for Certain Excluded Services

405.330 Payment for certain nonreimbursable expenses.
405.331 Liability for certain noncovered items or services.
405.332 Criteria for determining that there was knowledge that certain services were nonreimbursable.

Liability for Payments to Providers or Suppliers and Handling of Incorrect Payments

405.350 Individual's liability for payments made to providers and other persons for items and services furnished the individual.
405.351 Incorrect payments for which the individual is not liable.
405.352 Adjustment of title XVIII incorrect payments.
405.353 Certification of amount that will be adjusted against individual title II or railroad retirement benefits.
405.354 Procedures for adjustment or recovery—title II beneficiary.
405.355 Waiver of adjustment or recovery.
405.356 Principles applied in waiver of adjustment or recovery.
405.359 Liability of certifying or disbursing officer.

Suspension of Payment to Providers and Suppliers and Collection and Compromise of Overpayments

405.370 Suspension of payments to providers of services and other suppliers of services.
405.371 Proceeding for suspension.
405.372 Submission of evidence and notification of administrative determination to suspend.
405.373 Subsequent action by intermediary or carrier.
405.374 Collection and compromise of claims for overpayments.

Authority: Secs. 1102, 1815, 1842, 1862, 1866a, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395u, 1395y, 1395cc, 1395gg, 1395hh, and 1395pp, and 31 U.S.C. 951–953).

B. The regulation text is amended as set forth below:

1. Undesignated centered headings are inserted as follows:

"General Provisions" is inserted immediately before § 405.301.

"General Exclusions" is inserted immediately before § 405.311.

"Exclusion of Services Covered Under Workers' Compensation" is inserted immediately before § 405.316.

"Payment for Certain Excluded Services" is inserted immediately before § 405.330.

"Liability for Payments To Providers or Suppliers and Handling of Incorrect Payments" is inserted immediately before § 405.350.

"Suspension of Payment and Collection and Compromise of Overpayments" is inserted immediately before § 405.370.

2. Undesignated centered headings and new §§ 405.322 through 405.329 are added to read as follows:

Exclusion of Services Covered Under Automobile Medical, No-Fault, or Liability Insurance

§ 405.322 Services covered under automobile medical or no-fault insurance, or any liability insurance: General provisions.

(a) *Applicability.* The provisions of this section and of §§ 405.323 through 405.325 are applicable to services required because of accidents that occurred on or after December 5, 1980.

(b) *Definitions.* As used in this section, and §§ 405.323 through 405.325—"*Automobile*" means any self-propelled land vehicle of a type that must be registered and licensed in the State in which it is owned.

"*Automobile medical or no-fault insurance*" means automobile insurance (including self-insured plans) that pays for all or part of the medical expenses for injuries sustained in the use, occupancy, or operation of an automobile, regardless of who may have been responsible for causing the accident. (This insurance is sometimes called "medical payments coverage" "personal injury protection", or "medical expense coverage".)

"Liability insurance" means insurance (including a self-insured plan) that provides payment based on legal liability for injury to persons or damage to property. It includes, but is not limited to, automobile liability insurance, uninsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance, and general casualty insurance.

"Self-insured plan" means a plan under which an entity (or an individual) is authorized by State law to carry its own risk instead of insuring itself with a carrier.

"Uninsured motorist insurance" means insurance under which the policyholder's insurer will pay for damages caused by a motorist who has no automobile liability insurance or who carries less than the amount of insurance required by law or is underinsured.

(c) *Exclusion from Medicare payment.* (1) Medicare payment may not be made for any services to the extent that payment has been made or can reasonably be expected to be made under automobile medical or no-fault insurance or under any liability insurance policy or plan (including a self-insured plan). (2) If payment was erroneously made by HCFA for services covered under automobile medical or no-fault insurance, or paid for under liability insurance, the payment is subject to recovery.

(d) *Services paid for under automobile or liability insurance.* Effective for services furnished on or after December 5, 1980, if payment is made under automobile medical or no-fault insurance or any liability insurance—

(1) Except as provided in paragraph (d)(2) of this section, Medicare payment will be denied or, if already made, will be recovered from the provider, supplier, or beneficiary who received the Medicare payment.

(2) *Exception.* HCFA will not recover the Medicare payment if the insurance payment was actually received by the beneficiary before June 6, 1983.

(e) *Waiver of recovery.* HCFA may waive recovery action if the probability of recovery or the amount involved does not warrant pursuit of the claim.

§ 405.323 Special provisions: Services for which payment can reasonably be expected under automobile medical or no-fault insurance.

(a) *Effective date.* This section is effective for services furnished on or after June 6, 1983.

(b) *Automobile medical or no-fault benefits excluded or limited for medicare beneficiaries.* Except as specified in paragraph (c) of this section payment may not be made for services covered under an automobile medical or no-fault insurance policy or plan even though State law or the insurance policy or plan states that its benefits are secondary to Medicare's or otherwise excludes or limits its payments if the injured party is also entitled to Medicare benefits.

(c) *Conditional payment in contested or otherwise delayed cases.* (1) A conditional Medicare payment may be made under any of the following circumstances:

(i) The beneficiary, or the provider or supplier, has filed a claim for automobile medical or no-fault insurance benefits but, because the claim is contested by the insurer or for any other reason, there will be substantial delay in making insurance payments.

(ii) The beneficiary failed to file a claim for automobile medical or no-fault insurance benefits because of physical or mental incapacity.

(2) HCFA may as a prerequisite for the conditional payment, require the beneficiary to authorize it to pursue the beneficiary's rights against the insurer if the beneficiary does not, and to promise to cooperate in HCFA's action.

(3) If a conditional Medicare payment is made, the following rules apply:

(i) If the beneficiary receives payment from the automobile medical or no-fault insurer, he or she must reimburse Medicare up to the amount of the Medicare payment.

(ii) If the provider or supplier receives payment from the automobile medical or no-fault insurer, it must reimburse Medicare up to the amount of the Medicare payment.

(iii) If, for any reason, payment is not received from the insurer, HCFA may bring an action against the insurer to recover the amounts due under the statute. The beneficiary must cooperate in HCFA's action

(4) The amount of recovery under paragraph (c)(3)(iii) of this section will not exceed the amount of the conditional payment.

(5) At the time the conditional payment is made, the Medicare intermediary or carrier will notify the beneficiary or his or her representative of the obligation to refund the conditional payment. However, failure to send notice does not relieve the beneficiary of the obligation to refund the conditional payment, as required by paragraph (c)(3)(i) of this section.

§ 405.324 Special provisions: Services for which payment can reasonably be expected under liability insurance.

(a) *Conditional Medicare payment.* (1) If HCFA has information that services for which Medicare benefits have been claimed are for treatment of an injury or illness that was allegedly caused by another party and that the beneficiary has filed, or has the right to file, a liability claim against the other party, a conditional Medicare payment may be made.

(2) HCFA may, as a prerequisite for conditional payment, require the beneficiary to authorize it to pursue the beneficiary's rights against the insurer or the responsible party if the beneficiary does not, and to promise to cooperate in HCFA's action.

(3) If a conditional Medicare payment is made, the following rules apply:

(i) If the beneficiary receives payment from an insurance carrier or self-insured party, he or she must reimburse Medicare up to the amount of the Medicare payment.

(ii) If the provider or supplier receives payment from the insurance carrier or self-insured party, it must reimburse Medicare up to the amount of the Medicare payment.

(iii) If payment is not received from the insurer or the responsible party, HCFA may bring an action against the insurer or the responsible party, and the beneficiary must cooperate in HCFA's action.

(4) The amount of recovery under paragraph (a)(3)(iii) of this section will not exceed the amount of the conditional payment.

(5) At the time the conditional Medicare payment is made, the Medicare intermediary or carrier will notify the beneficiary or his or her representative of the obligation to refund the conditional payment. However, failure to send notice does not relieve the beneficiary of the obligation to refund the conditional payment as required by paragraph (a)(3)(i) of this section.

(b) *Determining the amount to be recovered from a beneficiary who received a liability insurance payment as a result of a judgment or settlement.*—(1) *Basic rule.* The amount to be recovered from the beneficiary is the amount Medicare paid, less a proportionate share of the costs of procuring the judgment or settlement. If the Medicare payments equal or exceed the amount of the judgment or settlement, the total procurement costs are subtracted from the Medicare payments. The individual will not be required to refund more than the

liability insurance payment minus the procurement costs.

(2) *Computation when Medicare payment is less than the amount of the judgment or settlement.* If the Medicare payment is less than the amount of the judgment or settlement—

(i) Determine the ratio of the Medicare payments to the total amount of the judgment or settlement;

(ii) Apply this ratio to the costs of procuring the judgment or settlement, including attorney fees; and

(iii) Subtract the Medicare share of procurement costs from the Medicare payments. The remainder is the amount of reimbursement to be refunded to the Medicare program.

(3) *Computation when Medicare payment equals or exceeds the amount of the judgment or settlement.* If the Medicare payment equals or exceeds the amount of the judgment or settlement, subtract the total procurement costs from the Medicare payment. The remainder, up to the amount of the liability insurance payment after the procurement costs have been subtracted, is the amount of reimbursement to be refunded to the Medicare program.

§ 405.325 Effect on benefit utilization and deductibles when services are payable under automobile medical, no-fault, or liability insurance.

(a) *Benefit utilization.* Inpatient services for which Medicare payment is not made (or if made is later recovered) because benefits are paid by an automobile medical or no-fault insurer or by a liability insurer will not be counted against the number of inpatient care days available to the beneficiary under Medicare Part A.

(b) *Deductibles.* Expenses for services for which Medicare payment is not made (or if made is later recovered) because benefits are paid by an automobile medical or no-fault insurer or by a liability insurer cannot be credited toward the Medicare Part A or Part B deductible amounts. If an individual is hospitalized twice in the same benefit period, and the first hospitalization is completely paid for by the insurer, the inpatient hospital deductible would apply to the second hospitalization.

Limitations on Payment for Services to End-Stage Renal Disease Beneficiaries Who Are Also Covered Under Employer Group Health Plans

§ 405.326 Scope and applicability.

(a) Sections 405.327 through 405.329 set forth policies and procedures for payment of benefits for services furnished to individuals who are entitled to Medicare solely on the basis of end-stage renal disease (ESRD) and who are also covered under an employer group health plan.

(b) In §§ 405.327 through 405.329 the following terms have the specified meanings:

(1) *"Employer"* means, in addition to individuals and organizations engaged in a trade or business, other entities exempt from income tax such as religious, charitable, and educational institutions, the governments of the United States, the individual States, the Territories, Puerto Rico, the Virgin Islands, Guam and the District of Columbia, and the agencies, instrumentalities, and political subdivisions of these governments.

(2) *"Employer group health plan"* or *"employer plan"* means any group health plan that—

(i) Is of, or contributed to by, an employer; and

(ii) Provides medical care directly or through other methods such as insurance or reimbursement, to current or former employees, or to current or former employees and their families.

(3) *"Secondary,"* when used to characterize Medicare payments, means that medicare benefits are payable only to the extent that payment cannot be made by one or more employer group health plans under which the Medicare beneficiary is covered.

§ 405.327 Medicare benefits secondary to employer group health plan benefits.

(a) *General rules.* (1) Effective for months after September 1981, Medicare benefits are secondary to benefits payable under an employer plan, for services furnished to an ESRD beneficiary during a period of up to 12 consecutive months as specified in paragraphs (b) and (c) of this section.

(2) If the individual becomes entitled to Medicare after the 12-month period has begun, as set forth in paragraph (c) of this section, Medicare benefits are secondary only for that portion of the 12-month period that begins with the month of entitlement.

(3) During the period in which Medicare benefits are secondary, Medicare will—

(i) Pay primary benefits for Medicare covered services that are not covered by the employer plan; and

(ii) Make secondary payments, within the limits specified in § 405.328, to supplement the amount paid by the employer plan if that plan pays only a portion of the charge for the service.

(4) Any Medicare benefits payable within the 12-month period are secondary to employer policies or plans even though the employer policy or plan states that its benefits are secondary to Medicare's or otherwise excludes or limits its payments to Medicare beneficiaries.

(b) *Beginning of 12-month period.* The period of 12 consecutive months specified by law begins with any month after September 1981 that is the earlier of the following months:

(1) The month in which the individual initiates a regular course of renal dialysis.

(2) In the case of an individual who receives a kidney transplant, the first month in which the individual could become entitled to Medicare if he or she filed a timely application, that is, the earliest of the following:

(i) The month in which the transplant is performed.

(ii) The month in which the individual is admitted to the hospital in preparation for, or anticipation of, a transplant that is performed within the next two months.

(iii) The second month before the month the transplant is performed, if performed more than 2 months after admission.

(c) *Beginning of period in which Medicare is secondary payer.* The period in which Medicare is secondary payer begins later than the beginning of the 12-month period (and therefore lasts less than 12 months) if the individual—

(1) Is subject to the 3-month waiting period for individuals who initiate renal dialysis but do not begin training for self-dialysis during the first 3 months of dialysis; or

(2) Files the application for Medicare entitlement more than 12 months after the month in which a 12-month period begins. (Under the Act, an application may not be retroactive for more than 12 months.)

(d) *Examples.* The following examples illustrate how to determine, in different situations, the number of months during which Medicare is secondary payer.

(1) *Individual filed a timely application and became entitled without a waiting period.* In October 1981, John began a regular course of dialysis and filed an application for Medicare. In December 1981, John began training for self-dialysis. Since John initiated self-dialysis training during the first 3 months of dialysis, he is exempt from the waiting period and becomes entitled as of October 1981, the first month of dialysis. In this situation, the month of entitlement coincides with the beginning of the 12-month period and Medicare is secondary payer during the entire period.

(2) *Individual filed a timely application and became entitled to*

Medicare after a waiting period. (i) Janice started a regular course of renal dialysis in October 1981 and filed an application in the same month. The 12-month period begins with the October 1981, but the 3-month waiting period doesn't end until December 1981. The month of entitlement for Janice is January 1982. Medicare is secondary payer from January through September 1982.

(ii) Peter started a regular course of dialysis in January 1982, and was hospitalized and received a kidney transplant in March 1982. The 12-month period begins with January 1982. The kidney transplant cuts short the dialysis waiting period so that Peter becomes entitled in March 1982. Medicare is secondary payer from March through December 1982.

(3) *Individual did not file a timely application.* In January 1982, Katherine suffered kidney failure and received a kidney transplant but did not apply for Medicare until July, 1983. Since the application is retroactive for only 12 months, Katherine becomes entitled to Medicare in July 1982. The 12-month period begins in January 1982, the month in which Katherine could have been entitled if she had filed a timely application. Medicare is secondary payer from July through December 1982.

(e) *Effect of changed basis for Medicare entitlement.* If the basis for an individual's entitlement to Medicare changes from ESRD to age 65 or disability, the 12-month period terminates with the month before the month in which the change is effective.

(f) *Determinations for subsequent periods of ESRD entitlement.* If an individual has more than one period of entitlement based solely on ESRD, a period during which Medicare may be secondary payer will be determined for each period of entitlement, in accordance with this section.

§ 405.328 Amounts of secondary medicare payment.

(a) *Services reimbursed on a reasonable charge basis.* The Medicare secondary payment will be the lowest of the following:

(1) The actual charge by the supplier, minus the amount paid by the employer plan.

(2) The amount that Medicare would pay if the services were not covered by the employer plan.

(3) The sum of the amounts that would have been paid by Medicare as primary payer and the employer plan as secondary payer, minus the amount actually paid by the employer plan.

(4) If the claim is filed under an assignment, the Medicare reasonable charge, minus the amount paid by the employer plan. (If the beneficiary does not assign the claim but files for direct payment, this limit does not apply.)

(b) *Services reimbursed on a reasonable cost basis.* The Medicare secondary payment will be the lower of the following:

(1) The lesser of the provider's reasonable cost or customary charges, minus any applicable deductible or coinsurance amount.

(2) The lesser of the provider's reasonable cost or customary charges, minus the amount paid by the employer plan.

(c) *Services reimbursed on a cost-related basis.* The Medicare secondary payment will be the lower of the following:

(1) The cost-related rate established for the service minus any applicable deductible or coinsurance amount.

(2) The cost-related rate established for the service, minus the amount paid by the employer plan.

(d) *Example of computation of Medicare secondary payment for services reimbursed on a reasonable charge basis.*

(1) Physician's charge for professional services	$120
(2) Employer plan's allowable charge	110
(3) Medicare reasonable charge	100
(4) As primary payer the employer plan pays 80 percent of allowable charge (.80 × 100)	88
(5) As primary payer, Medicare would pay 80 percent of reasonable charge (.80 × 100)	80
(6) As secondary payer, the employer plan would pay the difference between its allowable charge and the primary payment ($110 − $80)	30
(7) As secondary payer, Medicare pays the lowest of the amounts specified in paragraph (a) of this section:	
(i) The excess of the actual charge over the amount paid by the employer plan is $120 − $88	32
(ii) The amount Medicare would pay if the services were not covered by an employer plan is .80 × $100	80
(iii) The sum of the amounts that would have been paid by Medicare as primary payer and the employer plan as secondary payer, minus the amount actually paid by the employer plan is ($80 + $30 − $110) − $88	22
(iv) If the physician accepted assignment the Medicare reasonable charge minus the amount paid by the employer plan is $100 − $88	12

Since Medicare pays the lowest of the amounts determined under paragraph (a), the Medicare payment is $22 if the beneficiary filed for direct payment; $12 if the physician filed the claim under an assignment.

(e) *Effect of secondary payments on Part A utilization.* If Medicare pays secondary benefits, the beneficiary will be charged with utilization of Medicare benefits only to the extent that Medicare paid for the services.

(f) *Crediting expenses toward deductibles.* Expenses that would serve to meet the beneficiary's Part A or Part B deductible if Medicare were primary payer, will be credited to the deductible even if the expenses are reimbursed by the employer group health plan.

§ 405.329 Conditional payments and recovery of payments.

If the Medicare intermediary or carrier knows from experience or ascertains that the employer plan's payments in general are substantially less prompt than Medicare's, it will pay conditional primary benefits. In that case—

(a) The claimant (beneficiary, provider, or supplier) must file a claim with the employer plan and, to the extent that the claimant receives payment, reimburse the amount that Medicare paid in excess of its obligation as secondary payer;

(b) If payment is not received from the employer plan for any reason, HCFA may bring an action against the employer plan, and the beneficiary must cooperate in HCFA's action;

(c) HCFA may, as a prerequisite to making the conditional payment, require the beneficiary to authorize it to pursue the beneficiary's right against the employer plan if the beneficiary does not, and to promise to cooperate in HCFA's action;

(d) HCFA may waive recovery action if the probability of recovery or the amount involved does not warrant pursuit of the claim.

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-8504 Filed 4-4-83; 8:45 am]

BILLING CODE 4120-03-M

federal register

Tuesday
April 5, 1983

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Definitions and Terminology; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 779, 780, 783, 784, 816, 817, and 828

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Definitions and Terminology

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending the definitions of the terms "adjacent area," "affected area," and "permit area." The term "mine plan area" is removed from various regulatory provisions and replaced where appropriate with either "permit area," "permit area and adjacent area," or other appropriate language. These changes are made to clarify and simplify the existing rules and as a result of litigation on the permanent regulatory program regulations.

This final rule also provides notice that OSM has determined that no further action is necessary with respect to the 2-acre exemption and that the final 2-acre exemption rule, which was published at 47 FR 33424, August 2, 1982, will remain in effect unchanged.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Joel Yudson, Division of Surface Mining, Office of the Solicitor, U.S. Department of the Interior, Phone: 202–343–5207.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 4, 1982 (47 FR 41), OSM published a notice of proposed rulemaking to amend 30 CFR Chapter VII with respect to the 2-acre exemption (§ 700.11(b)), the definition of certain terms, and the regulations regarding special bituminous coal mines in Wyoming. OSM previously issued final rules with respect to the 2-acre exemption and special bituminous coal mines in Wyoming (47 FR 33424, August 2, 1982).

OSM today is issuing final rules with respect to the definition of the terms "adjacent area," "affected area," and "permit area." This rule also removes the term "mine plan area" from the regulations, except where an existing provision using that term is subject to another proposed revision.

The term "road" which was proposed to be amended in the January 4, 1982 rulemaking is being finalized in a separate rulemaking with the performance standards for roads and therefore is not included in this final rule. No final action is being taken with respect to the definitions of "area of potential subsidence" and "area of expected subsidence" and the proposal to add definitions for those terms is being withdrawn.

This final rule also provides notice that OSM has determined that no further action is necessary with respect to the 2-acre exemption and that the August 2, 1982, final rule will remain in effect unchanged.

Public comments on these proposed rules were solicited for 30 days ending on February 3, 1982. This period was subsequently extended to February 16, 1982. Those persons offering comments during this period included State officials, citizens, environmental groups, and industry representatives. A public hearing was scheduled for January 25, 1982, but no testimony was offered. OSM carefully considered all comments received in drafting these final rules.

II. Definitions Relating to Areal Descriptions

A. "Mine Plan Area"

In response to the suspension of the use of the term "mine plan area" by order of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulations Litigation*, No. 79–1144 (D.D.C.), Slip op. at pp. 35–36 (February 26, 1980) and Slip op. at pp. 57–58 (May 16, 1980), and the general confusion with respect to areal descriptions used in the regulations, OSM proposed to remove the phrase "mine plan area" from its permanent program regulations and use alternative areal descriptors. This final rule reflects the alterantives included in the proposed rule and comments received on the rulemaking.

The final rule deletes the term "mine plan area" from the regulations, with a few exceptions that will be accomplished in other pending rulemakings. The proposed rule omitted reference to a prior rulemaking completed in August 1980, which deleted certain references to "mine plan area" from the permanent program regulations. (See 45 FR 51550, August 4, 1980.) Changes proposed as part of this rulemaking which overlap changes covered by the prior rulemaking are discussed with the analysis of each section, below. Each use of the term "mine plan area" in the existing regulations, and the substitute selected for use in replacement of that term are detailed below. The discussion encompasses changes already made, changes made in this rule, and changes that will be made as part of other pending revisions.

Provisions Changed

The proposed rules in 30 CFR Chapter VII published on January 4, 1982, (47 FR 41) are divided into three groups. The first group contains the rules proposed on January 4, 1982, that were previously revised on August 4, 1980, (45 FR 51550). The following provisions are not revised since no additional action is necessary:

Section	
779.11	779.12(b).
779.22(c)	779.24(i).
779.25 (e) and (j)	783.11.
783.12(b)	783.22(c).
783.24(i)	783.25 (e) and (j).
779.13(a)	779.15(a).
779.16(a)	779.17.
779.25 (f) and (g)	780.21(a)(1), (a) (3) and (c).
783.13 (a) and (a)(1)	783.14(a).
783.15(a)	783.16(a).
783.17	783.25 (f) and (g).
784.14(a)(1), (a) (3) and (c)	779.18(a).
779.22(b)	779.25 (d) and (h).
779.27(a), (b)(5), (d), (d)(1) and (d)(2)	780.11.
780.14(b)(2)	780.21(b)(1).
780.25 (a) and (b)	780.37(e).
783.18(a)	783.22(b).
783.25 (d) and (h)	783.27(b)(5).
784.11	784.14(b) (1) and (d).
784.16 (a) and (b)(1)	784.23 (b)(2).
784.24(e)	779.16(b)(2).
779.24(g)	783.16(b)(2).
783.24(g)	780.21(b)(3).

The second group contains the proposed rules from the January 4, 1982, notice that are now also being considered in other rulemaking actions. For this reason, no additional action is being taken on the following rules at this time:

Section	
779.13(b)(1)	779.14(a).
785.19(c)(1)	816.41(a).
816.51(b)	816.52(a)(1).
817.41(a)	817.52(a)(1).
764.15(a)(7)	770.5.
786.14(b)(3)	785.19(e)(1)(iv).
816.104(a), (b), (b)(1) and (b)(3)	786.19(c).

Section	
816.116(b)(2)(ii)	816.105(a), (b), (b)(1) and (b)(4).
816.52(a)(2)	817.116 (a) and (b)(2)(ii).
783.14(a)(2)	817.52(a)(2).
788.13(b)	771.23 (e)(1) and (e)(2).
	825.11 (b)(2) and (b)(6).

The third group contains the following rules that are revised by this rulemaking action:

Section	
779.24(k)	783.24(k).
816.13	817.13.
828.11(e)	828.12(a).
780.14(b)	784.23(b).
779.12(a)	783.12(a).

Response to General Comments

Two commenters stated that the elimination of the term "mine plan area" from the regulations was not in accordance with the requirements of the U.S. District Court opinion, since the Court directed OSM to "revise the term" in accordance with the informational requirements of the Act. One of these commenters also stated that the terms used in place of the term "mine plan area" require information beyond OSM's authority. As indicated in the preamble to the proposed rule, OSM has conducted a thorough review of the use of the term "mine plan area" throughout the regulations and has found that no single term satisfactorily covers the Act's requirements in each instance. While it may be possible, in some instances, to develop a new definition for "mine plan area" that would be acceptable, OSM feels that to use the term "mine plan area" is unnecessary and would be confusing. Rather, the final rule utilizes terms that have a more direct relationship to language in the Act and which have a generally accepted meaning.

Several commenters observed that the term "coal mining and reclamation operations" which is used several times in the proposed definitions, is in fact itself undefined. Most recommended that the existing term "surface coal mining and reclamation operation" be retained since it is a defined term. The term "surface coal mining and reclamation operations" has been used in the final rule.

Some commenters stated that OSM had failed to specifically address reasons why certain uses of the broad interpretation provided under the term "mine plan area" had been eliminated. These comments were not specific enough to allow response. The bases for the changes are presented in sufficient specificity to provide a rationale for the terms used in each section. Some commenters stated that the Act allows OSM to require collection of information outside the permit area only for hydrologic data. These commenters suggested that the term "permit area" be used in all locations, other than those sections that relate to the hydrologic balance, rather that the phrase "permit area and adjacent area." OSM disagrees with the general premise that the Act allows collection of information outside the permit area only with respect to hydrologic data. Absent specific comments on individual permit information requirements that exceed the Act's authority, it is impossible to further evaluate the merits of these comments. However, OSM does not intend to preclude individual commenters from petitioning OSM for a rule change with respect to specific informational requirements that may be unnecessary, overburdensome or excessive and which may exceed the minimum requirements of the Act. One commenter stated that the States are in the best position to know local and regional conditions and may establish limits for the adjacent area. OSM agrees that individual regulatory authorities are in the best position to establish the extent of the adjacent area for individual mines based on local conditions. The final rule defining adjacent area provides guidance to the regulatory authority in establishing these limits as part of a State program or on a mine-by-mine basis.

Several commenters stated that the introduction of new, undefined terminology such as "potentially impacted offsite areas" creates uncertainty and inhibits effective analysis. One of these commenters would define "potentially impacted offsite areas" as "the entire area to be affected over the life of the mine" because Section 507(b)(11) of the Act justifies expansive hydrologic coverage. Another commenter would define the term "potentially impacted offsite areas" as "areas outside the permit area where site specific conditions indicate that resources protected by the Act could reasonably be expected to be impacted by coal mining and reclamation operations." A third commenter would substitute the term "adjacent area" for the term "potentially impacted offsite areas." Another commenter would eliminate the phrase because the Act does not require it.

OSM is rejecting the comment that suggests that the term be defined to include the entire area to be affected over the life of the mine. Responsibility for analysis of areas potentially impacted by anticipated future mining operations other than those covered by the proposed permit, including any subsequent permits over the anticipated life of the mine, must be evaluated with the cumulative hydrologic impacts for the proposed mine required under Section 510(b)(3) of the Act. (See proposed hydrology rule: 47 FR 27712, June 25, 1982.) OSM agrees that Section 507(b)(11) anticipates an evaluation of the probable hydrologic impacts of the proposed mining operations beyond the bounds of the permit area. That section requires a determination of the probable hydrologic consequences of mining both "on and off the mine site." The use of the term "potentially impacted offsite areas" would have reflected the requirements of the Act in Sections 507(b)(11) and 508(a)(13) with respect to the consideration of impacts of a proposed mining operation both "on and off the mine site." However, the majority of commenters felt that the use of a new term related solely to hydrologic impacts was unnecessary and that the term "adjacent area" could be used to adequately reflect the required analysis of hydrologic impacts outside the permit area. OSM is accepting these comments and has used the term "adjacent area" rather that "potentially impacted offsite area" to replace "mine plan area" in the final rule. Additionally, the definition of the term "adjacent area" has been revised to reflect consideration of hydrologic resources. (See discussion below.)

One commenter observed that the deletion of underground workings, including those associated with underground mining activities, in situ mining, and auger mining, from the term "permit area and potentially impacted offsite areas," could result in failure to provide the necessary protection and analysis with regard to the hydrologic balance required by the Act. The commenter is correct in pointing out an ambiguity in the proposed rules. As discussed below, OSM has resolved this ambiguity by adopting a sufficiently broad definition for the term "adjacent area" which includes areas potentially impacted by underground workings associated with underground mining activities, auger mining, and in situ mining.

Sections 779.11; 779.12(b); 779.22(c); 779.24(i) and (k); 779.25(e) and (j); 783.11; 783.12(b); 783.22(c); 783.24(i) and (k); 783.25(e) and (j); 816.13 and 817.13

In each of the above sections the proposed rule would have replaced the phrases "mine plan and adjacent areas" and "mine plan area and adjacent area" with "permit area and adjacent area." One commenter agreed with the proposal, except that in § 779.22(c), 779.24(k), 779.25(e), 783.22(c), 783.24(k), and 783.25(e), the term "permit area" should be used to more accurately reflect the area of concern. No other specific comments were received on these sections.

Sections 779.11; 779.12(b); 779.24(i); 779.25(j); 783.11; 783.12(b); 783.24(i); and 783.25(j) were previously revised at 45 FR 51550, August 4, 1980, in accord with the proposal. No additional change is necessary under the proposed rule and, therefore, no final action on these sections in necessary.

Sections 779.22(c) and 783.22(c) require permit applications to include information on existing land uses and land use classifications. These sections require information relevant to the postmining land use requirements of §§ 816.133 and 817.133. Sections 816.133 and 817.133 require that the postmining land use be approved based upon land uses in the surrounding area and the adjacent area under certain circumstances, including where the land had been previously mined, improperly managed, or where an alternative postmining land use is proposed. Thus, information on land uses and land use classifications in the permit area and adjacent area may be necessary to evaluate compliance with these performance standards and no change has been made in response to the comment. Sections 779.22(c) and 783.22(c) were previously revised at 45 FR 51550, August 4, 1980, in accord with the proposal. No additional change is necessary under the proposed rule and, therefore, no final action on these sections is necessary.

Sections 779.24(k) and 783.24(k) require information on land within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System to ensure compliance with Section 522(e)(1) of the Act. Section 522(e)(1) generally prohibits mining within the boundaries of such Systems. The requirements of Section 522(e)(1) do not apply to adjacent areas. Therefore, the comment has been accepted and the final rule revises §§ 779.24(k) and 783.24(k) by deleting the existing reference to "permit area and adjacent area" and using the term "permit area."

Sections 779.25(e) and 783.25(e) require information on known workings of active, inactive, or abandoned underground mines. Since underground mines may have impacts beyond the boundaries of the underground mines and because mining is prohibited within 500 feet from underground mines, except in certain circumstances, information on such mines may be necessary to ensure compliance with applicable performance standards. (See 30 CFR 816.79 and 817.79.) Sections 779.25(e) and 783.25(e) were previously revised at 45 FR 51550, August 4, 1980, in accord with the proposal. No additional change is necessary under the proposed rule and, therefore, no final action on these sections is necessary.

No comments were received on the proposed revisions to §§ 816.13 and 817.13. Therefore, the proposal is adopted in the final rule.

Sections 779.13(a) and (b)(1); 779.14(a); 779.15(a); 779.16(a); 779.17; 779.25(f) and (g); 784.14(a)(1), (a)(3) and (c); 785.19(c)(1); 816.41(a); 816.51(b); 816.52(a)(1); 817.41(a); 817.52(a)(1); 828.11(e); 828.12(a)

In each of the above sections, the proposed rule would have replaced the terms "mine plan area," "mine plan area and adjacent area(s)," or "mine plan or adjacent area(s)" with the phrase "permit area and potentially impacted offsite areas." Several commenters would use the phrase "permit area and adjacent area," since "potentially impacted offsite areas" was not defined and this could cause confusion in implementation of the regulations. Another commenter suggested that the phrase "permit area and adjacent area" be used because the Act does not authorize the use of the term "potentially impacted offsite areas." Another commenter suggested that "permit area and adjacent area" be used because the term "potentially impacted offsite areas" could extend beyond the adjacent lands. As previously discussed, the final rule utilizes the phrase "permit area and adjacent area," rather than "permit area and potentially impacted offsite area." The bases for use of this phrase are indicated above. No additional response to these comments is necessary.

Sections 779.13(a); 779.15(a); 779.16(a); 779.17; 779.25 (f) and (g); 784.14(a)(1), (a)(3) and (c) were previously revised at 45 FR 51550, August 4, 1980, in accord with the usage of the phrase "permit area and adjacent area" in this final rule. No additional change is necessary and, therefore, no action on the proposal will be taken.

Sections 779.13(b)(1) and 779.14(a) were previously revised at 45 FR 51550, August 4, 1980, by deletion of the term "mine plan area" and substitution of the term "permit area." This final rule would have revised these sections by using the phrase "permit area and adjacent area" rather than "permit area," to be consistent with the use of the former phrase in other sections of the regulations except that these provisions are proposed to be removed entirely in another rulemaking.

No comments were received on the proposed rule specifically related to §§ 785.19(c)(1); 816.41(a); 816.51(b); 816.52(a)(1); 817.41(a); 817.52(a)(1); 828.11(e); and 828.12(a). Therefore, §§ 828.11(e) and 828.12(e) are revised, as indicated above, by substitution of the phrase "permit area and adjacent area" for "mine plan area," "mine plan and adjacent area(s)," "mine plan or adjacent area(s)," or related terms. The other sections are the subject of pending rulemakings and will be revised accordingly in the future.

Sections 764.15(a)(7); 770.5; 771.23(e)(2); 779.18(a); 779.22(b); 779.25 (d) and (h); 779.27(a), (b)(5), (d)(2) locations), (d)(1), and (d)(2), 780.11; 780.14(b)(2); 780.21(b)(1); 780.25 (a) and (b); 780.37(e); 783.18(a); 783.22(b); 783.25 (d) and (h); 783.27(b)(5); 784.11(j); 784.14 (b)(1) and (d); 784.16 (a) and (b)(1); 784.23(b)(2); 784.24(e); 785.19(e)(1)(iv); 786.14(b)(3); 786.19(c) 816.104 (a), (b)(1) and (b)(3); 816.105 (a), (b), (b)(1) and (b)(4); 816.116(b)(2)(ii); 817.116 (a) and (b)(2)(ii)

In each of the above sections, the proposed rule would have replaced the term "mine plan area" with the term "permit area."

One commenter would replace the term "mine plan area" in §§ 780.11; 780.14(b)(2); 780.21(b)(1); 780.25 (a) and (b); 780.37(e); 784.11; 784.14 (b)(1) and (d); 784.16 (a) and (b)(1)(j); 784.23(b)(2); and 786.19(c) with a broader term than "permit area" because Section 507(b)(11) requires consideration of potential impacts over the life of the mine. As previously indicated, OSM agrees that Section 507(b)(11) anticipates an evaluation of the probable hydrologic impacts of proposed mining operations beyond the bounds of the permit area. However, the analysis required by this section must be separated into two parts: (1) a determination of the probable hydrologic consequences of the operations covered by the permit "on and off the mine site," or in the "permit area and adjacent area," as that phrase is used in this rule; and (2) and assessment of the probable cumulative impacts of all anticipated mining on the

hydrologic balance. As indicated in the proviso to Section 507(b)(11) of the Act, submission of hydrologic information outside the "permit area and adjacent area" is optional and the operator may wait for necessary information to be provided by appropriate Federal or State agencies. Additionally, Section 507(b)(11) provides requirements for the collection and analysis of data on the hydrologic regime and does not require descriptions of mining operations not covered by the permit application. Each of the sections cited by the commenters relates to the description of proposed mining operations, land affected by those operations, and structures related to those operations. For these reasons, the commenters' suggestion is rejected.

Specifically, Sections 780.11; 780.14(b)(2); 780.21(b)(1); 780.25 (a) and (b); 780.37(e); 784.11(j); 784.14 (b)(1) and (d); 784.16 (a) and (b)(1); and 784.23(b)(2) are all related to the provision of information on proposed mining operations, land affected by those operations, and structures related to those operations required by definition to be within the "permit area" and not to the collection of hydrologic data outside the permit area. Each of these sections was previously revised at 45 FR 51550, August 4, 1980, by deletion of the term "mine plan area" and substitution of the term "permit area." Therefore, no action on the proposal with respect to these sections will be taken.

Section 786.19(c) contains criteria for permit approval as provided in Section 510(b)(3) of the Act, and not the permit information requirements of Section 507(b)(11). Section 510(b)(3) requires that proposed operations be designed to prevent material damage to the hydrologic balance outside the "permit area." Therefore, the commenters' suggestion with respect to this section is rejected. The final rule would have revised § 786.19(c) to parallel the language of Section 510(b)(3) by deleting the term "mine plan area" and replacing it with the term "permit area," except that Part 786 is proposed to be removed in another rulemaking.

No comments were received on the proposed revisions to the other sections listed above. However, all of these other provisions either are subject to another pending revision or were previously revised at 45 FR 51550, August 4, 1980, by deletion of the term "mine plan area" and substitution of the term "permit area." Therefore, no action on the proposal with regard to these sections will be taken.

Sections 780.14 and 784.23

The proposed rule would have deleted the terms "mine plan" and "adjacent area" in the first sentence of §§ 780.14 and 784.23; and deleted the phrase "Unless specifically required for the mine plan area or adjacent area by the requirements of this section" from §§ 780.14(b) and 784.23(b). No comments were received with respect to these proposals. Therefore, although the term "mine plan area" was previously replaced, the proposal is adopted in the final rule.

Sections 779.16(b)(2), 779.24(g), 783.16(b)(2), 783.24(g)

In each of the above sections the proposed rule would have deleted the term "mine plan area." One commenter suggested substituting the phrase "within the proposed permit area" rather than simply deleting the term "mine plan area." This comment was accepted. These sections were previously revised at 45 FR 51550, August 4, 1980, in accord with the comments. No additional change is necessary and, therefore, no action on the proposal will be taken.

Section 780.21(b)(3)

The proposed rule would have revised § 780.21(b)(3) by deleting the term "mine plan area" and replacing it with the term "disturbed area." One commenter recommended that the term "permit area" be used rather than "disturbed area" in this section. This comment was accepted. This section was previously revised at 45 FR 51550, August 4, 1980, in accord with the comment. No additional change is necessary and, therefore, no action on the proposal will be taken.

Sections 816.52(a)(2) and 817.52(a)(2)

The proposed rule would have deleted the phrase "on or off the mine plan area" in the above sections and replaced it with the phrase "permit area and potentially impacted offsite areas." One commenter suggested that these sections be revised in a manner consistent with other aspects of the proposal. Other comments suggested use of the phrase "permit area and adjacent area" rather than "permit area and potentially impacted offsite areas." Although these comments have been accepted, §§ 816.52(a)(2) and 817.52(a)(2) are subject to removal in another rulemaking and will not be amended at this time.

Section 783.14(a)(2)

The proposed rule would have revised § 783.14(a)(2) by replacing the phrase "The geology of those surface lands within the proposed mine plan area" with the phrase "The geology of those lands." Two commenters were concerned that the proposed rule could be interpreted such that geologic information would be required over the entire coal basin. Another commenter was concerned that the proposed rule places no limitation on the area for which geologic information could be required. This was not the intent of the proposed rule. These commenters suggested use of the term "permit area" or "permit area and adjacent area" rather than deletion of the term "mine plan area."

Section 783.14(a)(2) was previously revised at 45 FR 51550, August 4, 1980, by deleting the term "mine plan area" and replacing it with term "permit area." Neither the proposed rule nor the existing rule as revised on August 4, 1980, resolves the ambiguity perceived by the commenters. OSM accepts the comment that the geologic description required by § 783.14(a)(2) be limited to the "permit area and adjacent area." This change will be incorporated in the final geology permitting rules which are currently subject to revisions.

Sections 771.23 (e)(1) and (e)(2)

The proposed rule would have revised § 771.23(e)(1) by deleting the phrase "the remainder of the mine plan area and * * *." One commenter recommended the use of the term "permit area" in place of "mine plan area." As indicated in the proposal, the required scale of the maps for areas within the permit area is specified in § 771.23(e)(1). The use of the phrase "permit area and adjacent area" in this context would be contradictory. Therefore, the comment is rejected.

The proposed rule would have revised § 771.23(e)(2) by deleting the phrase "at any place within the mine plan area." No comments were received on the proposed change.

Sections 771.23 (e)(1) and (e)(2) are the subject of another rulemaking and will not be revised at this time.

Sections 779.12(a) and 783.12(a)

The proposed rule would have revised §§ 779.12(a) and 783.12(a) by deleting the phrase "of the subareas of the mine plan area." This section was previously revised at 45 FR 51550, August 4, 1980, by deletion of the term "mine plan area" and substitution of the term "permit area."

One commenter suggested revision of the language of §§ 779.12(a) and 783.12(a) to clarify the intent of the regulation. The commenter would revise Paragraph (a) as follows:

"(a) The lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for

which it is anticipated that individual permits for mining will be sought, and * * *."

The suggestion is accepted and the final rule revises §§ 779.12(a) and 783.12(a) in accord with the comment.

Section 788.13(b)

The proposed rule would have deleted the phrase "including, but not limited to, any remainder of the mine plan area described in the application for the existing permit," in § 788.13(b). No comments were received on this proposed change. However, § 788.13(b) is the subject of another rulemaking and will not be amended at this time.

Sections 825.11 (b)(2) and (b)(6)

The proposed rule would have deleted the terms "mining plan" and "mine plan" in §§ 825.11 (b)(2) and (b)(6) and replaced them with the term "permit." No comments were received on this proposed change. However, Part 825 was revised on August 2, 1982, in a manner which moots the proposal.

B. "Adjacent Area"

The definition of the term "adjacent area" is being revised to eliminate the reference to the term "mine plan area" and to more closely complement the other areal descriptors used, such as "permit area" and "affected area." The term "adjacent area" is intended to refer to an area of variable size in which specified resources could be adversely impacted by mining operations. The size of the adjacent area could vary on a case-by-case basis depending upon whether impacts on water, fish and wildlife, cultural resources, or others are being considered; it could also be established on a programmatic basis in a State program. (See also 43 FR 41671, September 18, 1978.)

The proposed rule provided two alternative ways of defining "adjacent area." The proposed rule also would have used the term "potentially impacted offsite areas" rather than "adjacent area" in applications dealing with the hydrologic balance.

The final rule adopts the basic language of the first alternative (Alternative A) from the proposal. Under this standard, the term "adjacent area" is defined to include areas outside the permit area where a resource is or resources are located and where those resources will be or could reasonably be expected to be adversely impacted by surface coal mining and reclamation operations. The extent of this area will be determined within the particular context in which the term is used in the regulations and the particular resource under consideration.

As indicated above, the use of the term "potentially impacted offsite areas" has been rejected in favor of continued use of the term "adjacent area." No definition was included in the proposal for the term "potentially impacted offsite area."

Several commenters suggested a definition substantially similar to the proposed definition for the term "adjacent area" and for the term "potentially impacted offsite area," while others suggested simply that the term "adjacent area" be used rather than defining a new term. Another commenter expressed concern that the use of the term "potentially impacted offsite areas" could result in omission of consideration of the hydrologic impacts of underground workings. Based upon these comments, OSM is not using the term "potentially impacted offsite areas." The term "adjacent area," however, has been revised to encompass consideration of potential offsite hydrologic impacts and to include specifically the probable impacts from underground workings, whether they be associated with underground mining activities, auger mining, or in situ mining. This definition will be used to encompass those areas where the hydrologic regime will be impacted by the proposed mining operation, while excluding unnecessary information on areas where there is no reasonable expectation of such an impact. The use of the term "adjacent area" rather than "potentially impacted offsite areas" will apply as well to the use of the term in the proposed hydrology rulemaking (47 FR 27712, June 25, 1982).

The majority of commenters supported Alternative A because it provided a more objective and administratively reasonable standard. Several of these commenters would have inserted "adversely" before "impacted," and "immediately" before "outside" to avoid listing of irrelevant information and to confine "adjacent" to its commonly accepted meaning.

The modifier "adversely" was included in the previous rule. In the final rule, OSM accepts the suggestion and inserts the word "adversely" before "impacted." This is consistent with OSM's intended meaning and was inadvertently omitted from the proposal. The suggestion to add the word "immediately" before "outside" was not accepted. OSM anticipates that the term "adjacent area" will be applied within the context in which the term is used in the regulations and of the particular resource under consideration. Thus, in some circumstances the resources impacted may be "immediately" outside the permit area, while in others, there could be some distance between the permit area and the resource.

Several commenters supported the second alternative (Alternative B). Some believed it would have given the States more flexibility to require permit information. Regulatory authorities have adequate flexibility under the rule adopted to ensure that permit applications include all information necessary to evaluate mining operations in accordance with the requirements of the Act. Individual regulatory authorities that prefer the second alternative, and deem it more appropriate within the context of their individual State regulatory programs, may incorporate the language of Alternative B as part of their programs inasmuch as that alternative is consistent with the "adjacent area" definition adopted.

One commenter preferred Alternative B because it was deemed impossible to determine in all cases whether an area will actually be affected and, therefore, it was argued that the definition should encompass all areas that might be affected. The final rule recognizes that it may be impossible to determine in all cases whether an area will actually be adversely impacted. For this reason, the adjacent area is defined to include areas where an adverse impact can reasonably be expected to occur. The adjacent area need not extend to areas where the potential impacts are remote and speculative and cannot reasonably be expected to occur.

Several commenters felt that neither alternative was acceptable and argued that the term "adjacent area" could only be used under the Act to refer to information related to the hydrologic balance. OSM disagrees with the asserted premise that the Act allows collection of information outside the permit area only with respect to hydrologic data. Thus, the recommendation that the use of the term "adjacent area" be restricted to information related to the hydrologic balance is rejected. (See the above discussion under "Mine plan area" for a more complete response on this issue.)

One commenter criticized the proposal as being too vague, not defining the resources protected, and potentially subject to arbitrary application. This commenter did not suggest an alternate approach. Another commenter suggested that the definition be revised to state specifically that its application would depend upon site specific conditions.

OSM has reviewed the proposed definition and has decided to retain a necessary degree of uncertainty in the

final language. The area determined to be within the "adjacent area" must be defined within the context of the particular resource being evaluated and often will depend upon local conditions. A further resolution of the term will be accomplished either on a permit-by-permit basis or as part of a State program. Thus, the adjacent area may differ from case to case depending upon the factors under consideration. This can be best resolved by the regulatory authority within the context of the particular requirement of the regulatory program and the conditions within the particular State, region, or locale where the proposed mining operation is located. To help clarify this intent, the language of the rule has been revised to reflect more clearly that the resource or resources requiring consideration are determined by the context in which the term "adjacent area" is used in a particular regulatory section. This is not intended to be a substantive change. No further change is necessary to reflect site specific conditions or circumstances where a particular resource does not exist or could not be impacted; only resources impacted or which could be impacted are included.

C. "Affected Area"

This final rule revises the definition of the term "affected area" to more closely reflect the scope of areas covered in Section 701(28) of the Act, and to clarify ambiguity in its application to roads and lands that overlie underground workings. Proposed revisions to the definition of "affected area" were also discussed in the final "two-acre rule," promulgated on August 2, 1982 (47 FR 33424). This rule is in accord with the action taken in that prior rulemaking.

The proposed rule provided four alternative approaches for determining when a road should be included within the "affected area" for a mine. This final rule adopts the second alternative with one modification. When describing roads not within the "affected area," it deletes the requirement for road construction standards as stringent as those applicable to access and haul roads under the applicable State program and requires instead that the road be constructed to meet the road construction standards for other public roads of the same classification in the local jurisdiction. With this change, the final rule excludes from the "affected area" any part of a road which (a) was designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) is maintained with public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction; and (c) there is substantial (more than incidental) public use. Every other access or haul road used for purposes of a surface mining and reclamation operation is included within the affected area.

Comments received on this aspect of the "affected area" definition are addressed in the August 2, 1982 **Federal Register** and are incorporated here by reference as the basis for this final rulemaking (See 47 FR 33430–33431.)

The proposed rule would also have revised the definition of "affected area" by including in the term for underground mines, in situ mines, and auger mines, either the phrase "area of expected subsidence" or the phrase "area of potential subsidence." Based upon comments received, neither term has been adopted. The final rule requires that, with respect to underground mining, in situ mining, and auger mining, the affected area must include the area located above the underground workings.

Several commenters suggested that the reference to subsidence be deleted entirely from the definition of "affected area." They argued that Congress provided for separate treatment of subsidence under Section 516 of the Act, and exclusion of subsidence would clarify that a reclamation bond need not be posted for areas of expected subsidence.

These comments have been rejected. Because of the potential for surface impacts in areas overlying underground workings, these areas should continue to be included within the "affected area" for the mine. In contrast to the position advanced by the commenters, OSM believes that Sections 516(b)(1) and 516(c) of the Act evidence Congressional intent to include some protection for surface lands from subsidence. Thus, the existing interpretation of the term "affected area," which includes lands overlying underground workings, has not been changed. These commenters are also incorrect in their assertion that the term "affected area" dictates which areas are to be covered by a performance bond. That position would be corrected if the previous definition of "permit area," which included all affected areas, had been retained. That definition is revised, as discussed below. These issues will be covered in more detail by a separate rulemaking on the Subchapter J requirements, which are related specifically to required bond protection.

One commenter supported limiting the term "affected area" to the "area of expected subsidence" because surface areas above underground workings which are designed not to subside are not "affected." Other commenters stated that the existing definition should be retained because determining the areas likely to be affected by underground mining is difficult. Another commenter stated that the "area of expected subsidence" is too broad because it may require an operator to include all areas overlying the projected underground workings merely on the presumption that subsidence may occur. This commenter argued that the requirement in Section 507(b)(14) of the Act for maps showing the location of underground mines is only to provide an opportunity to determine if the proposed underground coal mining could affect certain urbanized areas. Another commenter, however, argued that Section 507(b)(14), as well as Sections 516 (b)(1) and (c) of the Act, strongly support including as part of the affected area all surface areas overlying areas of potential subsidence.

In addition to these comments, OSM also received several comments on the related proposal to include a new definition for the term "area of expected subsidence" or "area of potential subsidence." Several commenters objected to either definition. These commenters also expressed a general preference for the term "area of potential subsidence" rather than the term "area of expected subsidence," if one of the two were to be included in the final rule. Several commenters supported including a definition of the term "areas of expected subsidence," because it was believed to be more consisent with Section 516(b)(1) of the Act and because it was believed that the "areas of potential subsidence" was too broad and unworkable. Other commenters suggested revising the term "area of expected subsidence" to mean simply the area addressed in the subsidence control plan. Another commenter stated that either definition was too narrow, since subsidence may cause serious effects on the hydrologic balance. One commenter stated that OSM's preamble statement that "potentially affected areas" would include all areas except where geologic conditions at the mine would preclude subsidence of the surface, appeared to conflict with OSM's preamble to the existing rules which stated that there has been no "evidence that subsidence can be definitely precluded as a possibility in any circumstance." Another commenter stated that while he agreed that the concept of the "area of expected subsidence" was reasonable, Congressional intent could not be carried out unless the area of

underground workings is included within the definition of "affected area."

OSM has reviewed all of the comments received on the proposal and has decided to accept the comments suggesting that neither definition be adopted and that the term "affected area" continue to include the entire area overlying underground workings. OSM recognizes that Congress provided for the regulation of underground mines only to the extent that they have a surface impact. Ideally this would include a precise prediction of all surface impacts and a corresponding resolution of the extent of OSM jurisdiction under the Act. However, the state of the art in subsidence prediction does not currently allow OSM to define these limitations clearly. On the other hand, Congress specified that the Act was intended to protect society and the environment from the adverse effects of surface coal mining operations (including the surface impacts of underground mining operations) and to assure that such operations are conducted so as to protect the environment. On balance, Congressional intent is more nearly met by including all areas overlying underground workings in the "affected area." For these reasons, OSM has decided to retain the existing scope of the definition of the term "affected area" and to not adopt the proposed definition of "area of expected subsidence" or "area of potential subsidence." If at some point in the future better predictive methodologies are developed which will allow the prediction of the surface impacts of underground workings, OSM may reconsider these definitions.

One commenter suggested deleting auger mining from the definition of "affected area." This comment has been rejected. Auger mining is included as a form of mining covered under Section 701(28) of the Act and as such is properly included within the definition of the "affected area."

One commenter suggested that "fee" tracts of property should be excluded from the "affected area" as well as any areas requested by the land owner. Another commenter objected to the inclusion of any provisions related to subsidence in the definition of "affected area," because it would require that underground mine operators comply with performance standards on lands they typically do not own or control. These comments have been rejected. The Act does not provide a basis for excluding areas from the "affected area" based upon land ownership.

D. Permit Area

The final rule revises the definition of the term "permit area" to follow the definition of "permit area" in Section 701(17) of the Act more closely and to indicate that overlapping permit areas for more than one operation are not required. The proposed rule included two alternatives. The first alternative (Alternative A) would have defined permit area as the area of land indicated on the operator's approved plan submitted with the permit application, which includes the area of land upon which the operator will conduct surface coal mining and reclamation operations under the permit. The second alternative (Alternative B) would have defined "permit area" as the area of land and water within boundaries designated on the permit application maps, as approved by the regulatory authority, including all "affected areas." The final rule adopts the first alternative with a few revisions.

The majority of the commenters preferred the first alternative as more consistent with the Act. One, however, stated that there is no need to define "permit area" since the Act defines it. One commenter supported the first alternative because it was related to the land on which the operator would conduct operations and not an affected area. Another commenter supported the first alternative since it clarified that the permit area would include the areas of land where the operator conducts operations. One commenter, who supported the first alternative also specifically supported the exclusion of areas adequately bonded under another valid permit from the "permit area." Another commenter, however, opposed the provision allowing the exclusion of areas otherwise bonded. This commenter believed that the provision was confusing and unnecessary since the regulatory authority would ensure that no area was double permitted or bonded. Some commenters who preferred the first alternative over the second alternative, also indicated a preference for the language in the Act that specifically related the "permit area" to the bonding requirements.

Several commenters recommended that the second alternative be selected. One commenter believed the second alternative preferable because it would include the area of potential subsidence. Another commenter stated that the second alternative would be preferable only if the final version included all areas of potential rather than expected subsidence.

One commenter thought that neither alternative was workable since they both would exclude parts of an operation. This commenter would have preferred the second alternative if all areas overlying underground workings were included.

OSM has considered all comments received in the development of the final rule. Based upon these comments, the first alternative has been selected. This alternative has been revised in two respects. First, to clarify the relationship further between the "permit area" and the bonding requirements, the definition has been revised to state explicitly that the permit area means the area required to be covered by the operator's performance bond under Subchapter J. This is not a substantive change, since Section 509(a) of the Act specifies bond coverage for an area coextensive with the first proposed alternative definition for "permit area." That is, the performance bond must cover the area of land upon which the operator will conduct surface coal mining and reclamation operations during the term of the permit. Second, the definition has been revised to indicate that at a minimum the permit area must include all disturbed areas. Again this is not intended to be a substantive change, since the operator would necessarily conduct surface coal mining and reclamation operations in all disturbed areas. These changes have been made to clarify the intent of the definition and minimize the potential for confusion in application.

The final rule retains the provision from the proposed rule allowing the exclusion from the permit area of areas adequately bonded under another valid permit. This provision is considered appropriate since each bond must be adequate to cover the anticipated costs of reclamation of the area involved, and therefore, duplicative bonding is unnecessary.

The comments suggesting that the term "permit area" specifically include all areas overlying underground workings has been rejected. The Act requires that the "permit area" include the land covered by the operator's bond. As stated above, this includes all areas upon which surface coal mining and reclamation operations are conducted. Those are the areas for which reclamation operations are planned and for which the performance bond can be accurately set. Although there is a potential for subsidence causing material damage in areas overlying the underground workings, there is no reclamation work planned there (unless there will also be a surface coal mining operation on that area). Thus there is no need for a performance bond on those

areas. Operator financial responsibility for areas outside the permit area is covered under the liability insurance requirements of Section 507(f) of the Act. Accordingly, to the extent the definition of "permit area" is tied to the bonding requirements of the Act, it is incorrect to include in the definition any reference to the "areas overlying the underground workings" or to the "affected area."

Under the revised definition of permit area, the performance standards of the Act will continue to apply to all surface coal mining and reclamation operations. Also, where informational requirements must apply to areas outside the redefined permit area, the provisions enunciating these requirements will be revised if necessary to include information from adjacent areas or other locations.

III. Two-acre Exemption

On August 2, 1982, OSM published final regulations implementing the 2-acre exemption under the permanent regulatory program. (47 FR 33424.) As part of a settlement agreement in *National Wildlife Federation v. Watt*, Civil Action No. 82-0320 (D.D.C.), the Department agreed to include the final 2-acre rule in the supplemental Environmental Impact Statement (EIS) on its permanent program regulations and reconsider the rule if the supplemental EIS demonstrated a need to do so.

The two-acre exemption was subsequently analyzed in OSM's "Final Environmental Impact Statement OSM EIS-1: Supplement." Based upon this supplemental EIS, it has been determined that the August 2, 1982 rule was properly and lawfully promulgated; therefore there is no need to reconsider the issue at this time.

Regarding the two-acre exemption, this notice serves as the record of decision based upon the supplemental EIS and is consistent with the preferred alternative published in Volume III of the supplemental EIS as well as the final rule published on August 2, 1982.

IV. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Furthermore, Section 8(a)(2) of E.O. 12291 applies to these final rules which are needed to facilitate resolution of the pending legal challenge to the August 2, 1982 revision to the 2-acre exemption.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the "Final Environmental Impact Statement, OSM EIS-1: Supplement," in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final EIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW, Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240.

This preamble serves as the record of decision under NEPA. The following differences are noted between this final rule and the preferred alternative in Volume III of the EIS.

1. The final rule amends the sections of the rules that are changed by the definitions included in this rulemaking. The definitions were analyzed in the EIS text. The application of the performance standards of the Act is not changed.

2. Additional clarification is made in Parts 779, 780, 783, 784 and 788 concerning permit applications, maps, plans, and information on the permit application that is within the scope of the EIS analysis.

3. The definition for "permit area" in the final rule is clarified to show that the permit area is covered by the operator's performance bond under Subchapter J of 30 CFR Chapter VII and includes all disturbed areas. These changes are consistent with the EIS analysis.

Federal Paperwork Reduction Act

There are no new information collection requirements established by these rules requiring approval of the Office of Management and Budget under 44 U.S.C. 3507 *et seq.*

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 828

Coal mining, Environmental protection, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 701, 779, 780, 783, 784, 816, 817 and 828 are amended as set forth below.

Dated: March 28, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

In § 701.5, the difinition of *Mine plan area* is removed and the definitions of *Adjacent area, Affected area,* and *Permit area* are revised to read as follows:

§ 701.5 Definitions.

* * * * *

Adjacent area means the area outside the permit area where a resource or resources, determined according to the context in which *adjacent area* is used, are or reasonably could be expected to be adversely impacted by proposed mining operations, including probable impacts from underground workings.

Affected area means any land or water surface area which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes the disturbed area; any area upon which surface coal mining and reclamation operations are conducted; any adjacent lands the use of which is incidental to surface coal mining and reclamation operations; all areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations, except as provided in this definition; any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways,

refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas; any areas upon which are sited structures, facilities, or other property material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings. The affected area shall include every road used for purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road (a) was disignated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) is maintained with public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction; and (c) there is substantial (more than incidental) public use.

* * * * *

Permit area means the area of land, indicated on the approved map submitted by the operator with his or her application, required to be covered by the operator's performance bond under Subchapter J of this chapter and which shall include the area of land upon which the operator proposes to conduct surface coal mining and reclamation operations under the permit, including all disturbed areas; provided that areas adequately bonded under another valid permit may be excluded form the permit area.

* * * * *

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

2. Section 779.12 is amended by revising paragraph (a) to read as follows:

§ 779.12 General environmental resources information.

* * * * *

(a) The lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought; and

* * * * *

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. Section 780.14 is amended by revising the introductory paragraph and the introductory text to paragraph (b) to read as follows:

§ 780.14 Operation plan: Maps and plans.

Each application shall contain maps and plans as follows:

* * * * *

(b) The following shall be shown for the proposed permit area:

* * * * *

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

4. Section 783.12 is amended by revising paragraph (a) to read as follows:

§ 783.12 General environmental resources information.

* * * * *

(a) The lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought; and

* * * * *

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

5. Section 784.23 is amended by revising the introductory paragraph and the introductory text to paragraph (b) to read as follows:

§ 784.23 Operation plan: Maps and plans.

Each application shall contain maps and plans as follows:

* * * * *

(b) The following shall be shown for the proposed permit area:

* * * * *

PARTS 779, 783, 816, 817, and 828 [AMENDED]

§§ 779.24 and 783.24 [Amended]

6. Sections 779.24(k) and 783.24(k) are amended by removing the words "permit area and adjacent area" and inserting in their place the words "permit area."

§§ 816.13 and 817.13 [Amended]

7. Sections 816.13 and 817.13 are amended by removing the words "mine plan and adjacent area" and inserting in their place the words "permit area and adjacent area."

§§ 828.11 and 828.12 [Amended]

8. Sections 828.11(e) and 828.12(a) are amended by removing the words "mine plan and adjacent area" and "mine plan and in adjacent areas" and inserting in their places the words "permit area and adjacent area."

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

[FR Doc. 83-8488 Filed 4-4-83; 8:45 am]

BILLING CODE 4310-05-M

federal register

Tuesday
April 5, 1983

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 859]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 30, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the form 121 for this and all previous notices is available on magnetic tape from the National Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS — VOLUME 859
ISSUED MARCH 30, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-AHR PRODUCTION CO				RECEIVED:	02/28/83	JA: CO			
8325363	82-1039	05009006145		108		COGBURN WECO #1-6	WALSH	17.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/28/83	JA: CO			
8325299	82-934	05067064475		103		SOUTHERN UTE 17-4 32-11	IGNACIO BLANCO	219.0	WESTERN SLOPE GAS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/28/83	JA: CO			
8325371	82-685	05005006794		103		#3 CHAS W MUEGGE 42-11	FAIRWAY	21.7	AMOCO PRODUCTION
8325367	82-689	05123108508		103		BEEBE DRAW 41-15 #2	ARISTOCRAT	128.0	PANHANDLE EASTERN
8325337	82-735	05123105?4		102-2		COAN 32-31 #1	BASELINE	2.9	COLORADO INTERSTA
8325369	82-754	05123105?4		103		COAN 32-31 #1	BASELINE	2.9	COLORADO INTERSTA
8325379	82-752	05123085?9		103		CPC 41-35 (32-47) #1	SPINDLE	4.3	AMOCO PRODUCTION
8325366	82-753	05123096?0		103		DORIS SMITH & CO 410-21 #1	SPINDLE	10.7	AMOCO PRODUCTION
8325365	82-929	05123106?5		103		HILLENBRAND 41-33 #3	BANNER LAKES	27.0	COLORADO INTERSTA
8325321	82-884	05001080?2		103		NORTH 32-15 #2	KRAUTHEAD	25.0	COLORADO INTERSTA
8325320	82-734	05001080?3		103		NORTH 41-15 #1	KRAUTHEAD	45.0	COLORADO INTERSTA
8325372	82-885	05005006?9		103		OAKLAND CATTLE CO 32-27 #2	PUMA	55.0	AMOCO PRODUCTION
8325319	82-1003	05001081?9		103		WAILES FARMS 110-4 #1X	CHIEFTAIN	3.5	PANHANDLE EASTERN
8325318	82-564	05039062?2		103		WHITEHEAD 32-7 #3	COMANCHE CREEK	2.5	AMOCO PRODUCTION
-CHEVRON U S A INC				RECEIVED:	02/28/83	JA: CO			
8325394	82-543	05103086?8		103		A C MCLAUGHLIN A-3X	RANGELY	4.0	NORTHWEST PIPELIN
8325368	82-530	05103085?2		103		C S HEFLEY 4X	RANGELY	1.1	NORTHWEST PIPELIN
8325287	82-550	05103079?2		103		CHEVRON FEE 108X	RANGELY	5.3	NORTHWEST PIPELIN
8325392	82-549	05103084?8		103		CHEVRON FEE 117X	RANGELY	8.6	NORTHWEST PIPELIN
8325348	82-562	05103084?9		103		CHEVRON FEE 118X	RANGELY	4.8	NORTHWEST PIPELIN
8325385	82-551	05103084?4		103		CHEVRON FEE 119X	RANGELY	9.4	NORTHWEST PIPELIN
8325386	82-533	05103085?5		103		CHEVRON FEE 121X	RANGELY	8.8	NORTHWEST PIPELIN
8325345	82-527	05103086?3		103		CHEVRON FEE 122X	RANGELY	6.6	NORTHWEST PIPELIN
8325384	82-552	05103086?4		103		CHEVRON FEE 124X	RANGELY	7.2	NORTHWEST PIPELIN
8325344	82-528	05103086?1		103		CHEVRON FEE 125X	RANGELY	6.4	NORTHWEST PIPELIN
8325346	82-547	05103086?6		103		CHEVRON FEE 126X	RANGELY	6.6	NORTHWEST PIPELIN
8325388	82-553	05103086?1		103		CHEVRON FEE 127X	RANGELY	6.6	NORTHWEST PIPELIN
8325298	82-622	05103086?8		103		CHEVRON FEE 128X	RANGELY	2.6	NORTHWEST PIPELIN
8325380	82-519	05103086?9		103		CHEVRON FEE 129X	RANGELY	8.2	NORTHWEST PIPELIN
8325391	82-546	05103086?5		103		CHEVRON FEE 136X	RANGELY	6.6	NORTHWEST PIPELIN
8325382	82-541	05103086?1		103		CHEVRON FEE 137X	RANGELY	6.6	NORTHWEST PIPELIN
8325295	82-521	05103086?3		103		CHEVRON FEE 138X	RANGELY	1.8	NORTHWEST PIPELIN
8325296	82-531	05103086?2		103		CHEVRON FEE 139X	RANGELY	2.2	NORTHWEST PIPELIN
8325396	82-515	05103085?6		103		E OLDLAND 5X	RANGELY	1.3	NORTHWEST PIPELIN
8325352	82-513	05103086?2		103		E RECTOR 11X	RANGELY	2.8	NORTHWEST PIPELIN
8325332	82-529	05103084?3		103		EMERALD 76X	RANGELY	1.0	NORTHWEST PIPELIN
8325303	82-540	05103079?8		103		EMERALD 65X	RANGELY	4.8	NORTHWEST PIPELIN
8325381	82-542	05103079?4		103		EMERALD 67X	RANGELY	3.5	NORTHWEST PIPELIN
8325333	82-526	05103079?5		103		EMERALD 68X	RANGELY	5.6	NORTHWEST PIPELIN
8325347	82-518	05103081?9		103		EMERALD 74X	RANGELY	1.7	NORTHWEST PIPELIN
8325393	82-544	05103084?7		103		EMERALD 75X	RANGELY	1.9	NORTHWEST PIPELIN
8325341	82-561	05103084?0		103		EMERALD 77X	RANGELY	11.0	NORTHWEST PIPELIN
8325398	82-517	05103084?1		103		EMERALD 78X	RANGELY	1.3	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SECTY	SECOND	WELL NAME	FIELD NAME	PROD	PURCHASER
8325397	82-516	0510308492	103			EMERALD 82X	RANGELY	8.7	NORTHWEST PIPELIN
8325288	82-549	0510308535	103			J E COLTHARP 9X	RANGELY	3.4	NORTHWEST PIPELIN
8325387	82-848	0510308736	103			L B WALBRIDGE 84X	RANGELY	6.6	NORTHWEST PIPELIN
8325343	82-559	0510306850	103			LEVISON 35X	RANGELY	12.5	NORTHWEST PIPELIN
8325389	82-944	0510308737	103			M E HEFLY 87X	RANGELY	1.5	NORTHWEST PIPELIN
8325292	82-523	0510308696	103			M E HEFLY 8X	RANGELY	8.3	NORTHWEST PIPELIN
8325293	82-522	0510308810	103			PURDY 2X-1	RANGELY	0.6	NORTHWEST PIPELIN
8325399	82-628	0510308705	103			PURDY 3X-1	RANGELY	8.1	NORTHWEST PIPELIN
8325581	82-528	0510308759	103			SHARPLES-MCLAUGHLIN 13X-33	RANGELY	21.8	NORTHWEST PIPELIN
8325534	82-509	0510307973	103			UNION PACIFIC R R 101X28	RANGELY	8.5	NORTHWEST PIPELIN
8325585	82-554	0510307945	103			UNION PACIFIC R R 105X29	RANGELY	14.9	NORTHWEST PIPELIN
8325350	82-512	0510308450	103			UNION PACIFIC R R 106X32	RANGELY	2.8	NORTHWEST PIPELIN
8325349	82-511	0510308498	103			UNION PACIFIC R R 107X32	RANGELY	3.5	NORTHWEST PIPELIN
8325384	82-535	0510308495	103			UNION PACIFIC R R 108X21	RANGELY	3.7	NORTHWEST PIPELIN
8325335	82-510	0510308497	103			UNION PACIFIC R R 109X32	RANGELY	2.5	NORTHWEST PIPELIN
8325383	82-536	0510308558	103			UNION PACIFIC R R 110X21	RANGELY	11.8	NORTHWEST PIPELIN
8325339	82-563	0510308522	103			UNION PACIFIC R R 111X 29	RANGELY	6.7	NORTHWEST PIPELIN
8325342	82-560	0510308606	103			UNION PACIFIC R R 113X22	RANGELY	1.8	NORTHWEST PIPELIN
8325382	82-537	0510308866	103			UNION PACIFIC R R 115X21	RANGELY	1.3	NORTHWEST PIPELIN
8325388	82-538	0510308897	103			UNION PACIFIC R R 116X21	RANGELY	7.5	NORTHWEST PIPELIN
8325390	82-548	0510308908	103			UNION PACIFIC R R 122X21	RANGELY	2.9	NORTHWEST PIPELIN
8325386	82-840	0510308855	103			UNION PACIFIC R R 131X-32	RANGELY	21.9	NORTHWEST PIPELIN
8325351	82-555	0510308798	103			UNION PACIFIC R R 132X-21	RANGELY	2.2	NORTHWEST PIPELIN
8325289	82-525	0510308667	103			UNION PACIFIC RR 111X-22	RANGELY	6.6	NORTHWEST PIPELIN
8325395	82-514	0510308699	103			UNION PACIFIC RR 124X21	RANGELY	16.6	NORTHWEST PIPELIN
8325353	82-821	0510308705	103			UNION PACIFIC RR 121X-21	RANGELY	8.2	NORTHWEST PIPELIN
8325286	82539	0510308764	103			UNION PACIFIC 133X-33	RANGELY	11.0	NORTHWEST PIPELIN
8325296	82-532	0510308594	103			W H COLTHARP "B" 2X	RANGELY	9.2	NORTHWEST PIPELIN
8325290	82-508	0510308693	103			W H COLTHARP A-7X	RANGELY	12.1	NORTHWEST PIPELIN
8325291	82-524	0510308793	103			W H COLTHARP B-1X	RANGELY	5.9	NORTHWEST PIPELIN
-DONALD S WALKER			RECEIVED:	02/28/83	JA: CO				
8325397	82-566	0512306612	107-TF			SALVADOR 2-5	ROCK CREEK	50.0	CITIES SERVICE GA
-ENERGY MINERALS CORPORATION			RECEIVED:	02/28/83	JA: CO				
8325378	82-1015	0512309562	108-ER			BETH #1	ROGGEN	18.0	PHILLIPS PETROLEU
8325364	82-1050	0512308232	108			STANLEY #4	SPINDLE	6.0	PANHANDLE EASTERN
-FUEL RESOURCES DEVELOPMENT CO			RECEIVED:	02/28/83	JA: CO				
8325336	82-657	0507708402	102-Z			COLORADO LAND #5	PLATEAU	31.0	NORTHWEST PIPELIN
-HRUBETZ OIL CO			RECEIVED:	02/28/83	JA: CO				
8325324	82-626	0500900000	102-2			HUME #1-20		90.0	COLORADO INTERSTA
-J-W OPERATING COMPANY			RECEIVED:	02/28/83	JA: CO				
8325329	82-696	0512506624	107-TF			C JOSH #1-33	UNNAMED	160.0	KANSAS-NEBRASKA N
8325328	82-573	0512506627	107-TF			LENGEL #1-18	WILDCAT	210.0	CITIES SERVICE GA
8325316	82-601	0512506675	107-TF			T BROPHY #28-33	UNNAMED	111.0	KANSAS-NEBRASKA N
8325315	82-697	0512506658	107-TF			W HARDING #2-27	WAGES	149.0	KANSAS-NEBRASKA N
-JOHN P LOCKRIDGE			RECEIVED:	02/28/83	JA: CO				
8325329	82-658	0512506738	107-TF			DEVLIN #34-4	BONNY FIELD	36.0	CITIES SERVICE GA
8325326	82-657	0512506764	107-TF			DEVLIN #32-4	BONNY	36.0	CITIES SERVICE GA
8325325	82-586	0512506731	107-TF			DEVLIN #34-28	BONNY	15.0	CITIES SERVICE GA
8325314	82-588	0512506755	107-TF			HELLING #32-13	BONNY FIELD	50.0	CITIES SERVICE GA
8325313	82-630	0512506646	107-TF			LIPPERT #32-25	BONNY FIELD	15.0	CITIES SERVICE GA
8325312	82-584	0512506735	107-TF			MOELLENBERG #32-4	BONNY FIELD	30.0	CITIES SERVICE GA
8325311	82-583	0512506734	107-TF			MOELLENBERG #34-4	BONNY FIELD	30.0	CITIES SERVICE GA
8325309	82-585	0512506753	107-TF			MOELLENBERG #36-31	BONNY	15.0	CITIES SERVICE GA
8325310	82-582	0512506713	107-TF			MOELLENBERG #36-6	BONNY FIELD	36.0	CITIES SERVICE GA
8325308	82-587	0512506749	107-TF			PINCKARD #34-17	BONNY	36.0	CITIES SERVICE GA
-L & B OIL CO INC			RECEIVED:	02/28/83	JA: CO				
8325317	82-886	0500100000	103			ANDERSON #5	SUN	50.0	KOCH HYDROCARBON
8325377	82-565	0500100012	103			ANDERSON #6	SUN	70.0	KOCH HYDROCARBON
8325373	82-590	0512510169	103			STATE OF COLORADO #3-36 CG	SPACE CITY	1400.0	PANHANDLE EASTERN
-MORRIS OIL CO			RECEIVED:	02/28/83	JA: CO				
8325338	82-952	0507708504	107-TF			CURRIER 31-2	PLATEAU FIELD	9.2	
8325323	82-593	0507708504	107			CURRIER 31-2	PLATEAU	9.2	
8325356	82-605	0507708416	107-TF			HILL 29-2	BUZZARD	8.7	ROCKY MOUNTAIN NA
8325355	82-1004	0507708416	105			HILL 29-2	BUZZARD	8.7	ROCKY MOUNTAIN NA
-NORTHWEST EXPLORATION COMPANY			RECEIVED:	02/28/83	JA: CO				
8325359	82-631	0504506299	107-TF			CLOUGH 21	RULISON MESAVERDE	21.9	NORTHWEST PIPELIN
8325297	82-632	0504506299	105			CLOUGH 21	RULISON MESAVERDE	21.9	NORTHWEST PIPELIN
8325358	82-671	0504506395	107-TF			CLOUGH 26	RULISON MESAVERDE	36.5	NORTHWEST PIPELIN
8325322	82-670	0504506395	105			CLOUGH 26	RULISON MESAVERDE	36.5	NORTHWEST PIPELIN
-SAMUEL GARY OIL PRODUCER			RECEIVED:	02/28/83	JA: CO				
8325348	82-687	0508107974	107-JF			HAND MUEGGE #2-32	GARDNER C SW SE 32-T3	465.0	PANHANDLE EASTERN
-SANDLIN OIL CORP			RECEIVED:	02/28/83	JA: CO				
8325374	82-567	0508107799	105			BULLARD #5	KADAK FIELD	6.0	PANHANDLE EASTERN
8325375	82-566	0508107995	105			BULLARD #6	KADAK	75.0	PANHANDLE EASTERN
-ST VRAIN RESOURCES INC			RECEIVED:	02/28/83	JA: CO				
8325370	82-628	0512310544	103			KNAUB #1	WILDCAT	380.0	PANHANDLE EASTERN
8325331	82-629	0512310544	107-TF			KNAUB #1	WILDCAT	180.0	PANHANDLE EASTERN
-STREAM INC			RECEIVED:	02/28/83	JA: CO				
8325376	82-571	0507508957	103			PRIEST #1	DIPPER GAP	300.0	KANSAS NEBRASKA N
-TETON ENERGY CO INC			RECEIVED:	02/28/83	JA: CO				
8325354	82-614	0510308721	103			SOUTH DOUGLAS CREEK FEE #20	SOUTH DOUGLAS CREEK	192.0	WESTERN SLOPE GAS
8325330	82-615	0510308722	107-TF			SOUTH DOUGLAS CREEK FEE #20	SOUTH DOUGLAS CREEK	192.0	WESTERN SLOPE GAS
8325361	82-613	0510308198	103			SUPERIOR FEE #18	SOUTH DOUGLAS CREEK	106.0	WESTERN SLOPE GAS
-VESSELS OIL & GAS COMPANY			RECEIVED:	02/28/83	JA: CO				
8325362	82-1019	0512307905	108-ER			DOUDY #1	WATTENBERG	14.6	PANHANDLE EASTERN
8325307	82-1048	0512307946	108			SELTZER #5	WATTENBERG	19.0	PANHANDLE EASTERN
-X O EXPLORATION INC			RECEIVED:	02/28/83	JA: CO				
8325368	82-643	0512308326	103			PERRY 3	WATTENBERG	100.0	PANHANDLE EASTERN

NEW MEXICO DEPARTMENT OF ENERGY & MINERALS

-C E LONG			RECEIVED:	02/28/83	JA: NM				
8325281		3002500000	108-ER			RECTOR #1			
-FRED POOL OPERATING CO			RECEIVED:	02/28/83	JA: NM				
8325288		3000560745	102-2			J C NAIL #1			
-HARLAN DRILLING CO			RECEIVED:	02/28/83	JA: NM				
8325284		3004523685	108			HARTMAN #1-Z			
-HNG OIL COMPANY			RECEIVED:	02/28/83	JA: NM				
8325277		3001500000	102-2			FAULK "32" #2			
-MERRION OIL & GAS CORP			RECEIVED:	02/28/83	JA: NM				
8325285		3004500000	108			CARNAHAN COM #2			
-T H MCELVAIN OIL & GAS PROPERTIES			RECEIVED:	02/28/83	JA: NM				
8325279		3000561513	102-2			RATTLESNAKE SE #1			
-TENNECO OIL COMPANY			RECEIVED:	02/28/83	JA: NM				

FIELD NAME	PROD	PURCHASER
EUMONT YATES	0.0	WARREN PETROLEUM
PECOS SLOPE - ABO GAS	0.0	TRANSWESTERN PIPE
FULCHER KUTZ	0.0	EL PASO NATURAL G
NORTH LOVING (ATOKA)	0.0	UNITED GAS PIPELI
FLORA VISTA MESA VERD	5.8	EL PASO NATURAL G
PECOS SLOPE ABO	100.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8325283		3004524187	108			DAVIS #1	BLANCO MESAVERDE	10.5	NORTHWEST PIPELIN
8325282		3004524137	108			SAN JUAN GRAVEL AIE	BASIN DAKOTA	12.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION			RECEIVED:	02/28/83	JA: NM				
8325278		3000516822	102-3			ROCK HOUSE "VF" ST #1	UND ASO	8.0	TRANSWESTERN PIPE
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY			RECEIVED:	02/28/83	JA: WV				
8325266		4703302082	108			A-751	EAGLE DISTRICT	8.0	CONSOLIDATED GAS
8325265		4704102953	108			A-980	FREEMANS CREEK DISTRI	8.0	CONSOLIDATED GAS
8325264		4704103015	108			A-995	FREEMAN'S CREEK DISTR	8.0	CONSOLIDATED GAS
-APPALACHIAN ENERGY INC			RECEIVED:	02/28/83	JA: WV				
8325246		4703321997	103			A DAWTHROP A-E-42	CLARK	38.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC			RECEIVED:	02/28/83	JA: WV				
8325263		4701900137	108			EASTERN GAS & FUEL 833-838360	PAINT CREEK	19.0	COLUMBIA GAS TRAN
-CITIES SERVICE COMPANY			RECEIVED:	02/28/83	JA: WV				
8325247		4701702992	103			MAXWELL "A" #72	SMITHBURG	69.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	02/28/83	JA: WV				
8325272		4709101226	108			BARBARA SEELS WN 12635	PLEASANT DISTRICT	10.0	GENERAL SYSTEM PU
8325276		4709101652	108			DANIEL QUEEN WN-10061	HACKERS CREEK	5.0	GENERAL SYSTEM PU
8325269		4708101295	108			HALLIE GRIMM WN 12634	PLEASANT	8.0	GENERAL SYSTEM PU
8325259		4703301303	108			J C NICHOLAS WN-1420	ELK	11.0	GENERAL SYSTEM PU
8325275		4704101666	108			M J HALL WN-11153	FREEMANS CREEK	21.0	GENERAL SYSTEM PU
8325270		4708101259	108			MITCHELL MAYLE #2 WN12632	CLEMTOWN	2.0	GENERAL SYSTEM PU
8325273		4708100664	108			TEDDY A WEAVER 11761	PHILIPPI DISTRICT	22.0	GENERAL SYSTEM PU
8325271		4708101227	108			VERSAL MAYLE WN 12651	PLEASANT	4.0	GENERAL SYSTEM PU
8325274		4704101761	108			WILLIAM BURNSIDE WN-11275	FREEMANS CREEK	24.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC			RECEIVED:	02/28/83	JA: WV				
8325245		4708121269	103			T GORE #1 K-L-184	VALLEY	30.0	COLUMBIA GAS TRAN
8325243		4708121377	103			T GORE #2 K-L-186	VALLEY	30.0	COLUMBIA GAS TRAN
8325244		4708121270	103			T GORE #3 K-L-187	VALLEY	30.0	COLUMBIA GAS TRAN
8325242		4708121378	103			T GORE #4 K-L-202	VALLEY	30.0	COLUMBIA GAS TRAN
8325241		4708121379	103			T GORE #5 K-L-260	VALLEY	30.0	COLUMBIA GAS TRAN
-MERT DEVELOPMENT INC			RECEIVED:	02/28/83	JA: WV				
8325236		4702103691	107-DV			BURTON #1	TROY	73.0	CONSOLIDATED GAS
8325237		4701702953	107-DV			LEMLEY-SMITH #1	GRANT	48.0	CONSOLIDATED GAS
8325235		4702103492	107-DV			MATHENY #1	COVE CREEK	78.0	CONSOLIDATED GAS
8325238		4701702570	107-DV			PANSY MEFLIN #1	WEST UNION	75.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP			RECEIVED:	02/28/83	JA: WV				
8325249		4708101195	103			BADGER COAL CO #2	CLEMTOWN	41.0	CONSOLIDATED GAS
8325248		4703302184	103			BERNARD JOSEPH #1	BRIDGEPORT	8.0	CONSOLIDATED GAS
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	02/28/83	JA: WV				
8325239		4706100312	108			MANNING B-1	SOUTH BURNS CHAPEL	19.0	CONSOLIDATED GAS
8325240		4706100314	108			SELLARD A #1	SOUTH BURNS CHAPEL	20.0	CONSOLIDATED GAS
-STERLING DRILLING AND PROD CO INC			RECEIVED:	02/28/83	JA: WV				
8325251		4708703360	108			ALLEN #423	GEARY DISTRICT	11.4	COLUMBIA GAS TRAN
8325262		4701501658	108			ALOI #13 SDP #140	BUFFALO DISTRICT	3.0	EQUITABLE GAS CO
8325254		4701501869	108			BOGGS #394	OTTER DISTRICT	6.7	COLUMBIA GAS TRAN
8325255		4701500000	108			BOGGS #396	OTTER DISTRICT	4.3	COLUMBIA GAS TRAN
8325252		4701501863	108			BOGGS #397	OTTER DISTRICT	11.0	COLUMBIA GAS TRAN
8325253		4701501870	108			BOGGS #398	OTTER DISTRICT	9.5	COLUMBIA GAS TRAN
8325257		4708701569	108			CARPER #318	OTTER DISTRICT	5.5	EQUITABLE GAS CO
8325268		4702103725	108			DAVIDSON #415	DEKALB DISTRICT	5.3	EQUITABLE GAS CO
8325267		4702103725	108			DAVIDSON #417	DEKALB DISTRICT	14.0	EQUITABLE GAS CO
8325256		4708703586	108			JARVIS 438	GEARY DISTRICT	16.0	COLUMBIA GAS TRAN
8325261		4701500000	108			MULLINS SDP #307	BUFFALO DISTRICT	16.1	EQUITABLE GAS CO
8325260		4704102923	108			SHEARER #313	FREEMAN CREEK DISTRIC	28.7	CONSOLIDATED GAS
8325259		4704102924	108			SHEARER #314	FREEMANS CREEK DISTRI	19.9	CONSOLIDATED GAS
8325258		4708703350	108			WILMOTH #333	GEARY DISTRICT	23.4	COLUMBIA GAS TRAN
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
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-CONOCO INC			RECEIVED:	02/28/83	JA: LA 3				
8325431 G2-2806		1770848357	102-5			SOUTH MARSH ISLAND 136 A-10 STRK #3	SOUTH MARSH ISLAND	74.0	MICHIGAN WISCONSI
8325427 G2-2965		1770840219	102-5			SOUTH MARSH ISLAND 136 A-4	SOUTH MARSH ISLAND	1214.0	MICHIGAN WISCONSI
8325489 G2-2803		1770840276	102-5			SOUTH MARSH ISLAND 136 A-6	SOUTH MARSH ISLAND	13.0	MICHIGAN WISCONSI
8325428 G2-2807		1770840302	102-5			SOUTH MARSH ISLAND 137 A-11	SOUTH MARSH ISLAND	252.0	MICHIGAN WISCONSI
8325488 G2-2799		1770840484	102-5			SOUTH MARSH ISLAND 137 A-12	SOUTH MARSH ISLAND	292.0	MICHIGAN WISCONSI
8325418 G2-2809		1770840429	102-5			SOUTH MARSH ISLAND 137 A-13	SOUTH MARSH ISLAND	838.0	MICHIGAN WISCONSI
8325426 G2-2812		1770840456	102-5			SOUTH MARSH ISLAND 137 A-14	SOUTH MARSH ISLAND	198.0	MICHIGAN WISCONSI
8325411 G2-2811		1770840458	102-5			SOUTH MARSH ISLAND 137 A-14D	SOUTH MARSH ISLAND	955.0	MICHIGAN WISCONSI
8325415 G2-2800		1770840189	102-5			SOUTH MARSH ISLAND 137 A-2 STRK #2	SOUTH MARSH ISLAND	1569.0	MICHIGAN WISCONSI
8325417 G2-2802		1770840204	102-5			SOUTH MARSH ISLAND 137 A-3	SOUTH MARSH ISLAND	980.0	MICHIGAN WISCONSI
8325418 G2-2804		1770840346	102-5			SOUTH MARSH ISLAND 137 A-9	SOUTH MARSH ISLAND	646.0	MICHIGAN WISCONSI
8325403 G2-2805		1770840346	102-5			SOUTH MARSH ISLAND 137 A-9D	SOUTH MARSH ISLAND	880.0	MICHIGAN WISCONSI
-EXXON CORPORATION			RECEIVED:	02/28/83	JA: LA 3				
8325437 G2-3132		1771940371	102-5			OCS-G 1255 AD-12	SOUTH TIMBALIER	73.0	TRUNKLINE GAS CO
8325432 G2-2926		1771840968	102-5			OCS-G 2111 BC-3	EUGENE ISLAND	100.0	COLUMBIA GAS TRAN
-FELMONT OIL CORPORATION			RECEIVED:	02/28/83	JA: LA 3				
8325408		1770940353	102-1			OCS-G 3811 #A-1	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325419 G2-3406		1770940376	102-1			OCS-G 3811 #A-2D	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325412 G2-3404		1770940353	102-1			OCS-G-3811 #A-1D	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325414 G2-3405		1770940376	102-1			OCS-G-3811 #A-2	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325435 G2-3398		1770940394	107-DP			OCS-G-3811 #A-3	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325422 G2-3399		1770940414	107-DP			OCS-G-3811 #A-4	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325405 G2-3401		1770940415	107-DP			OCS-G-3811 #A-5 ST-1	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325439 G2-3400		1770940415	107-DP			OCS-G-3811 #A-5 ST-1D	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
8325406 G2-3402		1770940445	107-DP			OCS-G-3811 #A-6	EUGENE ISLAND	1750.0	TRANSCONTINENTAL
-GULF OIL CORPORATION			RECEIVED:	02/28/83	JA: LA 3				
8325434 G3-3434		1772440232	102-1			OCS-G 4127 WELL A-2 M/P BLK 311	MAIN PASS AREA	108.0	SOUTHERN NATURAL
-HUNT OIL COMPANY			RECEIVED:	02/28/83	JA: LA 3				
8325416 G2-3414		1770940583	107-DP			WELL #3	EUGENE ISLAND	1000.0	MICHIGAN WISCONSI
-MARATHON OIL COMPANY			RECEIVED:	02/28/83	JA: LA 3				
8325402 G2-3368		1771940273	102-1			WEST DELTA BLOCK 86 WELL #A-4	WEST DELTA	3650.0	TEXAS EASTERN TRA
-MESA PETROLEUM CO			RECEIVED:	02/28/83	JA: LA 3				
8325423 G2-2917		1770940439	102-5			VERMILION BLOCK 348 WELL #A-8D	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8325428 G2-3165		1770940511	102-1			VERMILION 381 #A-3D	VERMILION	1280.0	UNITED GAS PIPE L
-MOBIL OIL EXPLORATION & PROD S E			RECEIVED:	02/28/83	JA: LA 3				
8325404 G2-2852		1771140367	102-5			OCS-860 #12 - D SHIP SHOAL 72	SHIP SHOAL	91.3	TRANSCONTINENTAL
8325436 G2-3415		1771140594	102-1			SHIP SHOAL 182 #1 - A	SHIP SHOAL	123.5	
8325413 G2-3417		1771140606	102-1			SHIP SHOAL 182 #2-A	SHIP SHOAL	124.0	
8325433 G2-3419		1771140606	102-1			SHIP SHOAL 182 #2-C	SHIP SHOAL	57.0	
8325425 G2-3420		1771140631	102-1			SHIP SHOAL 182 #3 - B	SHIP SHOAL	112.0	
8325429 G2-3424		1771140655	102-1			SHIP SHOAL 182 #4 - A	SHIP SHOAL	123.0	
-ARCO OIL AND GAS COMPANY			RECEIVED:	02/28/83	JA: TX 3				
8325421 G2-2842		4270940589	102-5			OCS G-2688 HIGH ISL BLK A-467 #A-5	HIGH ISLAND BLOCK	908.0	TRANSCONTENTAL GA
8325424 G2-2845		4270940559	102-5			OCS G-2688 HIGH ISL BLK A-467 #A-9D	HIGH ISLAND BLOCK	681.0	TRANSCONTINENTAL
-SUPERIOR OIL CO			RECEIVED:	02/28/83	JA: TX 3				
8325407 G2-3149		4270440098	102-1			BRAZOS BLOCK 8578 WELL #B-6	BRAZOS	0.9	TRANSCONTINENTAL
-UNION OIL COMPANY OF CALIF			RECEIVED:	02/28/83	JA: TX 3				
8325401 G2-2828		4271140213	102-5			OCS-G-2423 #A-3	EAST HIGH ISLAND	529.0	TEXAS GAS TRANSMI

[FR Doc. 83-8774 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 860]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 30, 1983.

The following notices of determination were received from the indicted jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New resevoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopresured brine
107-CS: Coal Seams
107-DV: Devionian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS
ISSUED MARCH 30, 1983
VOLUME 860

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	02/28/83	JA: KS			
8325439	K-82-1063	1507700000		108		WINGATE #7	SPIVEY-GRABS	18.0	MOBIL OIL CORP
-SOUTHLAND ROYALTY CO				RECEIVED:	02/25/83	JA: KS		8.0	COLORADO INTERSTA
8325438	82-0844	1511920378		108-PB		ADAMS #6-11	LIBERAL - LIGHT	75.0	PANHANDLE EASTERN
-TITAN ENERGY CORP				RECEIVED:	02/28/83	JA: KS			
8325440	81-0747	1513500000		108-ER		LIGHT EST #1-11			
MONTANA BOARD OF OIL & GAS CONSERVATION									
-J BURNS BROWN				RECEIVED:	02/28/83	JA: MT			
8325444		2504122154		102-2		LONG 31-33-15B	BADLANDS	0.0	INTER NORTH INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-CONSOLIDATED OIL & GAS INC				RECEIVED:	02/28/83	JA: NM			
8325443		3004500000		108-PB		CHAVEZ #1	BLANCO - MESAVERDE	0.0	EL PASO NATURAL G
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTEX INC				RECEIVED:	03/01/83	JA: OH			
8325445		3418522472		103	107-TF	D MITCHELL #1	RUTLAND TOWNSHIP	4.0	COLUMBIA GAS TRAN
-ALTHEIRS OIL INC				RECEIVED:	03/01/83	JA: OH			
8325446		3412324619		103	107-TF	ALTHEIRS #3	SALT LICK TOWNSHIP	4.0	NICO-FIBERS INC
-AMERICAN EXPLORATION CO				RECEIVED:	03/01/83	JA: OH		10.0	COLUMBIA GAS TRAN
8325602		3413903262		108		C WATSON #2		5.0	
-ANDERSON DANIEL C				RECEIVED:	03/01/83	JA: OH			
8325474		3416723984		108		R DANIEL WILES & WEEKS MILLER #1	GUSTOVUS	0.0	COLUMBIA GAS TRAN
-ATLAS ENERGY GROUP INC				RECEIVED:	03/01/83	JA: OH	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8325451		3415521845		107-TF		F MELONI #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8325452		3415521658		107-TF		F MILLER #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8325458		3415522136		107-TF		GOULDTHORPE #1	GREEN	0.0	COLUMBIA GAS TRAN
8325452		3415521944		107-TF		LEJEUNE #1	GREENE	0.0	COLUMBIA GAS TRAN
8325457		3415522122		107-TF		QUIGGLE #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8325453		3415521982		107-TF		S MELONI #1	BROOKFIELD	0.0	COLUMBIA GAS TRAN
8325459		3415522232		103	107-TF	SALOOM UNIT #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8325456		3415522066		107-TF		SHON #1	GREENE	0.0	COLUMBIA GAS TRAN
8325454		3415521983		107-TF		SPANGENBERG #1	GREENE	0.0	COLUMBIA GAS TRAN
8325455		3415522038		107-TF		YUNKMAN UNIT #1			
-ATWOOD RESOURCES INC				RECEIVED:	03/01/83	JA: OH	NEW BEDFORD	15.0	
8325447		3403124763		107-TF		JACOB MILLER #1	CLARK	15.0	
8325449		3407525956		107-TF		JOHN A YODER #3	CLARK	15.0	
8325448		3407523929		107-TF		NOAH J B MILLER #2			
-BATES OIL & GAS INC				RECEIVED:	03/01/83	JA: OH		12.0	COLUMBIA GAS TRAN
8325460		3408322956	D	108		BERMAN FLESHMAN #2		8.0	RIVER GAS CO
-BEARDMORE PRODUCING COMPANY				RECEIVED:	03/01/83	JA: OH			
8325461		3416722901		108		STAGE #1			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BELDEN & BLAKE & CO #1				RECEIVED:	03/01/83	JA: OH			
8325463		3415123819		103		V & L SHRADER COMM #1 - 34-1281	MARLBORO	36.5	
8325464		3415123829		103		V ZUMKEHR #1 - 34-1318	MARLBORO	36.5	
8325462		3401921611		103		WHITACRE-GREER #38 - 34-1272	BROWN	36.5	
-BETHEL RESOURCES INC				RECEIVED:	03/01/83	JA: OH			
8325465		3416922419		103	107-TF	PAUL HINES #1	WOOSTER WEST	10.0	COLUMBIA GAS TRAN
-BEVERIDGE DAVID L				RECEIVED:	03/01/83	JA: OH			
8325475		3411121649		108		WORKMAN #2		0.0	RIVER GAS CO
8325476		3411121650		108		WORKMAN #3		0.0	RIVER GAS CO
-BLAUSER WELL SERVICE INC				RECEIVED:	03/01/83	JA: OH			
8325466		3410522153		107-DV		ARTHUR D HEINEY #1-104	OLIVE	12.8	COLUMBIA GAS TRAN
8325467		3410522251		107-DV		ARTHUR D HEINEY #2-104	COOLVILLE	14.6	COLUMBIA GAS TRAN
-CAMERON BROS				RECEIVED:	03/01/83	JA: OH			
8325468		3411924738	D	107-TF		ROBERT HICKS #1	PERRY	9.8	NATIONAL GAS & OI
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	03/01/83	JA: OH		17.4	EAST OHIO GAS CO
8325469		3411923827		108		OHIO POWER 14MC			
-CLINTON OIL CO				RECEIVED:	03/01/83	JA: OH			
8325588		3408924255		103		B & E HUSBAND #1-629	HOPEWELL	1.0	
8325590		3411926533		103	107-TF	GRACE VICKERS #1-759	HIGHLAND	10.0	
8325589		3411926393		103	107-TF	RITA SHINDLER #1-732	CASS	10.0	
-CONSOLIDATED RESOURCES OF AMERICA				RECEIVED:	03/01/83	JA: OH			
8325472		3416320787		107-TF		BOLANDER #1	BROWN'S	7.0	COLUMBIA GAS TRAN
8325471		3416320471		103	107-TF	CARPENTER #2	BROWN'S	5.0	COLUMBIA GAS TRAN
8325473		3416320794		107-TF		CARPENTER #5	BROWN'S	7.0	COLUMBIA GAS TRAN
8325470		3405923599		103	107-TF	CHARLES J JONES #1	LIBERTY	50.0	COLUMBIA GAS TRAN
-DAVID SHAFER OIL PRODUCERS INC				RECEIVED:	03/01/83	JA: OH			
8325478		3410321934	D	108		DIETER-TRITT #2		6.4	COLUMBIA GAS TRAN
8325477		3410321929	D	108		HORN UNIT #2		5.4	COLUMBIA GAS TRAN
-DERBY OIL & GAS CORP				RECEIVED:	03/01/83	JA: OH			
8325479		3405922966		107-TF		LELAND MILLS #1	SPENCER	12.0	COLUMBIA GAS TRAN
8325480		3412725802		103		MARGARET CANNON #2	CLAYTON	12.0	NATIONAL GAS & OI
8325481		3412725803		103		MARGARET CANNON #3	CLAYTON	12.0	NATIONAL GAS & OI
8325482		3412725812		103		SPROAT #1	JACKSON	12.0	FORAKER GAS CO IN
-DOME ENERGY &2				RECEIVED:	03/01/83	JA: OH			
8325484		3409321177		107-TF		CASPER #1	COLUMBIA	6.0	COLUMBIA GAS TRAN
8325485		3409321198		107-TF		HUGHES #1	COLUMBIA	8.0	COLUMBIA GAS TRAN
8325487		3410323255		107-TF		MID #1	LIVERPOOL	2.0	COLUMBIA GAS TRAN
8325486		3410323254		107-TF		MID #2	LIVERPOOL	1.0	COLUMBIA GAS TRAN
-DON MCKEE DRILLING CO INC				RECEIVED:	03/01/83	JA: OH			
8325483		3412725828		103		SKINNER & BINCKLEY #1	THORN	10.0	NATIONAL GAS & OI
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED:	03/01/83	JA: OH			
8325488		3411523048		107-TF		HADLEY UNIT #2	BRISTOL	20.0	COLUMBIA GAS TRAN
8325489		3411523053		103	107-TF	HAYWARD GOINS UNIT #2	MALTA	20.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	03/01/83	JA: OH			
8325496		3405520709		103	107-RT	BEAM #2	WINDSOR	18.0	
8325494		3405520702		103	107-RT	GREENWOOD #1	WINDSOR	20.0	
8325491		3405520210		103	107-RT	HUNT #2	MIDDLEFIELD	19.0	
8325493		3405520248		103	107-RT	MAST #3	HUNTSBURG	19.0	
8325490		3405520206		103	107-RT	MILLER #15	HUNTSBURG	20.0	
8325495		3405520706		103	107-RT	WENGERD #2	WINDSOR	20.0	
8325492		3405520247		103	107-RT	WHITE #1	MIDDLEFIELD	17.0	
-ENTERPRISE ENERGY CORP				RECEIVED:	03/01/83	JA: OH			
8325497		3407322253		103	107-TF	LANDREE #1	WASHINGTON	36.5	COLUMBIA GAS TRAN
8325498		3416320795		103	107-TF	MCVEY #2	SWAN	27.3	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	03/01/83	JA: OH			
8325500		3408922665		103	107-TF	DRYDOCK COAL #20 TR	TRIMBLE	18.2	COLUMBIA GAS TRAN
8325501		3408922692		103	107-TF	DRYDOCK COAL #29TR	TRIMBLE	18.2	COLUMBIA GAS TRAN
8325499		3408922525		103	107-TF	DRYDOCK COAL #7D	DOVER	18.2	COLUMBIA GAS TRAN
-FUTURE ENERGY CORPORATION				RECEIVED:	03/01/83	JA: OH			
8325502		3411523855		103	107-TF	NAZEH #1	MALTA	30.0	
-GASEARCH INC				RECEIVED:	03/01/83	JA: OH			
8325503		3415522229		103	107-TF	NATIONAL NORTHERN INC #4	LIBERTY	0.0	YANKEE RESOURCES
-GEO ENERGY INC				RECEIVED:	03/01/83	JA: OH			
8325504		3411924114		107-RT		PIDCOCK #4	PERRY	18.2	
-GREEN GAS COMPANY				RECEIVED:	03/01/83	JA: OH			
8325505		3409321188		107-TF		BARTTER #1	COLUMBIA	15.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:	03/01/83	JA: OH			
8325506		3410521852		107-TF		JAY HALL JR JAYMAR	RUTLAND	8.0	COLUMBIA GAS TRAN
8325507		3410522594		107-TF		ROBERT KING #3	RUTLAND	9.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	03/01/83	JA: OH			
8325509		3412725053		103	107-TF	BERTHA & CHARLES BEATRICE #1	PLEASANT	10.0	COLUMBIA GAS TRAN
8323603		3408924537		103		O VICTOR #1	HANOVER	0.0	NEWZANE GAS CO
8325508		3411926217		103	107-TF	PAUL HORN #1	NEWTON	10.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	03/01/83	JA: OH			
8325516		3410522342		107-TF		CHARLES ESKEW #6	SALISBURY	6.0	COLUMBIA GAS TRAN
8325518		3410522482		107-DV		CLYDE JOHNSON-DON JOHNSON #1	LEBANON	8.0	COLUMBIA GAS TRAN
8325521		3410522580		107-TF		GUY RUSSELL #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8325523		3410522617		107-TF		GUY RUSSELL #2	SALISBURY	6.0	COLUMBIA GAS TRAN
8325522		3410522521		107-TF		HAROLD & RUTH SELLERS #2	LEBANON	8.0	COLUMBIA GAS TRAN
8325517		3410522373		107-DV		HOWARD ERVIN & NANCY ERVIN #1	SUTTON	6.0	COLUMBIA GAS TRAN
8325519		3410522488		107-TF		J B & ROBERTA O'BRIEN #3	RUTLAND	7.0	COLUMBIA GAS TRAN
8325520		3410522489		107-TF		J B & ROBERTA O'BRIEN #4	RUTLAND	6.0	COLUMBIA GAS TRAN
8325515		3410522212		107-DV		J E & L C DIDDLE #2	SUTTON	5.0	COLUMBIA GAS TRAN
8325514		3410521529		107-DV		LAWRENCE BEEGLE #1	SUTTON	5.0	COLUMBIA GAS TRAN
8325511		3405520581		107-TF		MELVIN STOVER #2	CHESHIRE	5.0	COLUMBIA GAS TRAN
8325513		3410521419		107-DV		PAUL ERVIN UNIT #1	SUTTON	3.0	COLUMBIA GAS TRAN
8325512		3407928133		107-DV		WILLIAM MCKELL ESTATE #2	MILTON	7.0	COLUMBIA GAS TRAN
-J P WHITE				RECEIVED:	03/01/83	JA: OH		0.0	COLUMBIA GAS TRAN
8325525		3405520817	D	108		GARBER #1			
-JACK MORAN				RECEIVED:	03/01/83	JA: OH			
8325510		3408924329		103		ROBERT & SHIRLEY ROMINE #1	EDEN	8.0	
-JOHN C MASON				RECEIVED:	03/01/83	JA: OH			
8325524		3407923948		107-TF		DAN & DORA MILLER #1	BERLIN	12.0	COLUMBIA GAS TRAN
-KEN-TRAK V				RECEIVED:	03/01/83	JA: OH			
8325529		3410522364	D	107-TF		MARK GREUSSER #1	2ND BEREA (LOWER MISS	0.0	
-KEN-TRAK VI				RECEIVED:	03/01/83	JA: OH			
8325528B		3410522328	D	107-TF		HARRY J DENISON #1 (BELOW 1487)	LOWER MISSISSIPPIAN	0.0	
8325528A		3410522328		107-TF		HARRY J DENISON #1 (TO 1487)	LOWER MISSISSIPPIAN	0.0	
-KENOIL				RECEIVED:	03/01/83	JA: OH			
8325527		3416923380		107-TF		HOWARD GARRETT #1		3.0	COLUMBIA GAS TRAN
8325526		3416921674		108		WARD OLLER #2		3.0	COLUMBIA GAS TRAN
-L & M OPERATING INC				RECEIVED:	03/01/83	JA: OH			
8325531		3412724483		108		NEIL ADCOCK #2		10.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	03/01/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8325538		3408923695		103		BAUGHMAN #A-1	PERRY	12.0	
-LOMAK PETROLEUM INC				RECEIVED:	03/01/83	JA: OH			
8325533		3413322824		107-TF		L A SHOWALTER #2	WINDHAM	29.0	COLUMBIA GAS TRAN
8325532		3409920946		108		L JOHNSON #1		8.2	EAST OHIO GAS CO
-LOVE WINSTON				RECEIVED:	03/01/83	JA: OH		0.0	RIVER GAS CO
8325598		3416722747		108		BURKE #1	SHARON	200.0	
-MICHAELS OIL & GAS CO				RECEIVED:	03/01/83	JA: OH			
8325534		3418322448	D	107-TF		MICHAELS #5	HOPEWELL	10.0	
-MILLER PETE JR				RECEIVED:	03/01/83	JA: OH			
8325604		3411926547		107-TF		WM P MILLER #1	UNION	18.0	YANKEE RESOURCES
-NEW FRONTIER EXPLORATION INC				RECEIVED:	03/01/83	JA: OH	SHARON	20.0	YANKEE RESOURCES
8325543		3415723809		103	107-TF	EDGAR REYMOND #1	ENOCH	20.0	COLUMBIA GAS TRAN
8325539		3412122915		103	107-TF	GLEN DELANCEY #2	LIBERTY	22.0	YANKEE RESOURCES
8325540		3412122922		103	107-TF	JOSEPH CROCK #6	NIMISHILLEN	18.0	YANKEE RESOURCES
8325538		3405923611		103	107-TF	ROBERT CORNELL #1	WEST	20.0	COLUMBIA GAS TRAN
8325542		3415123805		103	107-TF	THOMPSON-CARLSON UNIT #1	DEERFIELD	26.0	YANKEE RESOURCES
8325537		3402920912		103	107-TF	WHITELEATHER-GEISELMAN UNIT #1			
8325541		3413322963		103	107-TF	WILLARD KALEY #1		0.0	M B OPERATING CO
-NORTH EAST NATURAL GAS CO INC				RECEIVED:	03/01/83	JA: OH		0.0	M B OPERATING CO
8325551		3415722512	D	108		CAMFIELD-MUNTZ #2		0.0	M B OPERATING CO
8325545		3401920595	D	108		M W C D E 1		0.1	M B OPERATING CO
8325548		3415721522	D	108		M W C D J1		0.0	M B OPERATING CO
8325544		3401920563	D	108		M W C D 1 A		0.0	M B OPERATING CO
8325547		3401920666	D	108		MAYDOCK WOJCIK #2		0.0	M B OPERATING CO
8325550		3415721524	D	108		SEARS #1		0.1	M B OPERATING CO
8325549		3415721523	D	108		WM BELKNAP #B-1		0.0	M B OPERATING CO
8325546		3401920663	D	108		YANICE BROOKS #1			
-O E D CO				RECEIVED:	03/01/83	JA: OH			
8325552		3408922030		107-TF		MILLFIELD #9	MILLFIELD	14.6	
8325554		3408922328		107-TF		SUGARCREEK #10	MILLFIELD	10.9	
8325553		3408922327		107-TF		SUGARCREEK #9	MILLFIELD	10.9	
-OHIO INDUSTRIAL GAS CO				RECEIVED:	03/01/83	JA: OH			
8325555		3411521265	D	108		SHIRLEY CLARK #1	HACKNEY	1.2	EAST OHIO GAS CO
-OMEAL PETROLEUM INC				RECEIVED:	03/01/83	JA: OH			
8325556		3411522504		107-TF		E NEWSOM #2	PENN	16.0	COLUMBIA GAS TRAN
8325558		3411523014		107-TF		HIPP #2	MALTA	12.0	COLUMBIA GAS TRAN
8325559		3411523082		107-TF		HIPP-ANTLE UNIT #1	MALTA	20.0	COLUMBIA GAS TRAN
8325557		3411523013		107-TF		J SCOTT #1	WINDSOR	66.0	COLUMBIA GAS TRAN
-PETROLEUM ENERGY PRODUCING CORP				RECEIVED:	03/01/83	JA: OH			
8325562		3408720758	D	108		A & J ARCARO #1	BUSHNELL	0.5	EAST OHIO GAS CO
8325565		3408720978	D	108		BROWN UNIT #1		9.0	
8325561		3408720581	D	108		D SNYDER #1		2.0	THE EAST OHIO GAS
8325560		3408720465	D	108		E & E ZGRABIK #1	BUSHNELL	20.0	
8325564		3408720965	D	108		H & G CUTTER #1		4.0	
8325567		3408720988	D	108		L & L FORBES #1		11.0	
8325563		3408720878	D	108		R & N STEWART #1	BUSHNELL	0.5	EAST OHIO GAS CO
8325566		3408720986	D	108		S A NORTON #1		7.0	
-ROVI RESOURCES CORP				RECEIVED:	03/01/83	JA: OH			
8325568		3411523020		107-TF		BAKER #2	BLOOM	11.0	COLUMBIA GAS TRAN
8325569		3411523021		107-TF		BAKER #3	BLOOM	11.0	COLUMBIA GAS TRAN
8325570		3411523022		107-TF		BAKER #4	BLOOM	11.0	COLUMBIA GAS TRAN
8325571		3411523023		107-TF		BAKER #5	BLOOM	11.0	COLUMBIA GAS TRAN
8325572		3411523043		107-TF		BAKER #8	BLOOM	11.0	COLUMBIA GAS TRAN
8325573		3411523044		107-TF		H REX #2	BLOOM	11.0	COLUMBIA GAS TRAN
8325574		3411523045		107-TF		H REX #6	BLOOM	11.0	COLUMBIA GAS TRAN
8325575		3411523046		107-TF		H REX #7	BLOOM	11.0	COLUMBIA GAS TRAN
8325576		3411523065		107-TF		ROBINSON #1	BLOOM	11.0	COLUMBIA GAS TRAN
8325577		3411523066		107-TF		ROBINSON #2	BLOOM	11.0	COLUMBIA GAS TRAN
8325578		3411523069		107-TF		RUSH #2	BLOOM	11.0	COLUMBIA GAS TRAN
8325579		3411523018		107-TF		RUSH #4	BLOOM	11.0	COLUMBIA GAS TRAN
8325580		3411523074		107-TF		STEWART #1	BLOOM	11.0	COLUMBIA GAS TRAN
8325581		3411523075		107-TF		STEWART #2	BLOOM	11.0	COLUMBIA GAS TRAN
8325582		3411523076		107-TF		STEWART #3	BLOOM	11.0	COLUMBIA GAS TRAN
-SOUTHERN OHIO PETROLEUM CO INC				RECEIVED:	03/01/83	JA: OH			
8325586		3416725213		107-DV		ALDA CULLEN #1	LIBERTY	12.0	COLUMBIA GAS TRAN
8325587		3416725248		107-DV		ALDA CULLEN #3	LIBERTY	12.0	COLUMBIA GAS TRAN
8325584		3412122251		107-DV		JOHN EAGON #1	BEAVER	12.0	COLUMBIA GAS TRAN
8325585		3412122252		107-DV		PEARL CARPENTER #1	BEAVER	12.0	COLUMBIA GAS TRAN
8325583		3401520320		107-DV		WILLIAM KIDD #1	SOMERSET	12.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	03/01/83	JA: OH			
8325535		3415723774		103	107-TF	ALBAUGH #1	UNION	9.0	
8325536		3415723775		103	107-TF	ALBAUGH #2	UNION	9.0	
-TIGER OIL INC				RECEIVED:	03/01/83	JA: OH			
8325591		3412725788		107-TF		T JOHNSON #1	MADISON	5.0	COLUMBIA GAS TRAN
-UNITED PETROLEUM CORP				RECEIVED:	03/01/83	JA: OH		3.2	YANKEE RESOURCES
8325592		3409920859		108		PITCAIRN KOPE #1	GOSHEN	28.0	AMERICAN ENERGY S
8325593		3409920929		107-RT		R MYERS #1	GOSHEN	28.0	AMERICAN ENERGY S
8325594		3409920934		107-RT		R MYERS #2			
-VALENTINE OIL PROPERTIES				RECEIVED:	03/01/83	JA: OH	GRANDVIEW	12.0	
8325595		3416727399		103		BETTY ENGLISH #1			
-W J LYDIC INC				RECEIVED:	03/01/83	JA: OH	MECHANIC	36.0	COLUMBIA GAS TRAN
8325601		3407536928		107-TF		KINER 1-17-3			
-WALLICK PETROLEUM CO				RECEIVED:	03/01/83	JA: OH	TRIMBLE	18.0	COLUMBIA GAS TRAN
8325596		3408922598		103	107-TF	BILL DOCIE #B-2	TRIMBLE	18.0	COLUMBIA GAS TRAN
8325597		3408922669		103	107-TF	JAN & DIANA ANGLE #2			
-WISP ENERGY INC				RECEIVED:	03/01/83	JA: OH	MCCONNELSVILLE	18.0	COLUMBIA GAS TRAN
8325599		3411523896		107-TF		HAINES #1	MCCONNELSVILLE	18.0	COLUMBIA GAS TRAN
8325600		3411523897		107-TF		HAINES #2			
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-BRAXTON OIL AND GAS CORP				RECEIVED:	01/07/80	JA: WV			
8059223		4702102846		108		PICKENS #1	SAND FORK	16.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	02/05/81	JA: WV			
8151034		4701702604		103		J-86	GREENBRIER	8.0	CONSOLIDATED GAS
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
**********									
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/28/83	JA: CA 2			
8325442 OCS-P 3-83		0431120522		102-S		SANTA CLARA UNIT 5-9	CALIFORNIA OFFSHORE	8.0	PACIFIC LIGHTING
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
**********									
-DUGAN PRODUCTION CORP				RECEIVED:	02/28/83	JA: NM 4			
8325441 NM 1269-82		3004522482		103		BLANCO WASH #2	WHITE WASH MANCOS - D	5.0	EL PASO NATURAL G

[FR Doc. 83-8775 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 861]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 30, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS — VOLUME 861

ISSUED MARCH 30, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-C & K PETROLEUM INC			RECEIVED:	03/02/83		JA: LA			
8325978	82-3137	1703320138		102-4		DUPLANTIER "A" #18	UNIVERSITY	13.0	SUGAR BOWL GAS CO
8325972	82-3138	1703320130		102-4		DUPLANTIER "A" #18-D	UNIVERSITY FIELD	1804.0	SUGAR BOWL GAS CO
-CAMPBELL ENERGY CORP			RECEIVED:	03/02/83		JA: LA			
8325989	82-2251	1702321687		102-4		A THERIOT #1 11078' SD RA SUA	KINGS BAYOU	365.0	LOUISIANA INTRAST
-CRUX LTD			RECEIVED:	03/02/83		JA: LA			
8325978	82-2481	1705721926		102-4		CARL J MIRE #1	NORTH LAUREL GROVE	562.0	GULF ENERGY MARKE
-CRYSTAL OIL AND LAND COMPANY			RECEIVED:	03/02/83		JA: LA			
8325998	81-2858	1701521642		102-2	107-TF	KEOUN "A" #1 HAY RA SUI	ARKANA	215.4	ARKANSAS LOUISIAN
-DANIELS WILLIAM E			RECEIVED:	03/02/83		JA: LA			
8325981	82-2601	1707321786		108		FEE #1	MONROE GAS	9.0	MID LOUISIANA GAS
-EDWIN L COX			RECEIVED:	03/02/83		JA: LA			
8325999	82-1138	1709728576		103		SUSAN B GARDNER #1	SOUTH SHUTESTON	219.0	LOUISIANA INTRAST
-ERIN EXPLORATION ASSOC			RECEIVED:	03/02/83		JA: LA			
8325991	82-1490	1701724275		102-4		TEXACO FEE #5 CV RA SUA SER #176541	LONGWOOD	548.0	SOUTHWESTERN ELEC
-EXXON CORPORATION			RECEIVED:	03/02/83		JA: LA			
8325975	82-2511	1710922565		107-DP		LATERRE CO INC 842	LIRETTE	3650.0	COLUMBIA GAS TRAN
-FOREST OIL CORPORATION			RECEIVED:	03/02/83		JA: LA			
8325987	82-3163	1705721862		103		J B LEVERT LAND CO #1	THIBODAUX	364.3	TRANSCONTINENTAL
-GENERAL AMERICAN OIL COMPANY OF TEX			RECEIVED:	03/02/83		JA: LA			
8325977	82-2284	1702321452		108		CAMERON PARISH SCHOOL BOARD #25	JOHNSON BAYOU CI-2 SA	47.5	TRANSCONTINENTAL
-GOLDKING PRODUCTION COMPANY			RECEIVED:	03/02/83		JA: LA			
8325990	82-2143	1702321785		103		MIAMI CORP "O" #3	CHENIERE PERDUE	14.6	MICHIGAN-WISCONSI
-GRACE PETROLEUM CORPORATION			RECEIVED:	03/02/83		JA: LA			
8325983	82-3318	1706120329		103		HUNT #1	SIMSBORO	0.0	LOUISIANA GAS PUR
-GULF OIL CORPORATION			RECEIVED:	03/02/83		JA: LA			
8325984	82-3268	1707522928		103		S L 195 90 WELL #54	NORTH BLACK BAY	21.8	SOUTHERN NATURAL
-HENRY GOODRICH D/B/A GOODRICH OIL C			RECEIVED:	03/02/83		JA: LA			
8325993	82-1129	1702720878		103		HASSELL #1-D	SUGAR CREEK FIELD	365.0	UNITED GAS PIPE L
-HERD PRODUCING COMPANY INC			RECEIVED:	03/02/83		JA: LA			
8325969	82-0717	1711322866		102-2		RUFUS P SMITH #1 SMK A RA SUA	BERNICE	60.0	LOUISIANA GAS INS
-HOGAN EXPLORATION INC			RECEIVED:	03/02/83		JA: LA			
8325994	82-0737	1702120799		102-4		WILLIS TARVER #2 HEGLEY RA SUN	WELCOME HOME	75.0	LOUISIANA INTRAST
-HOME PETROLEUM CORPORATION			RECEIVED:	03/02/83		JA: LA			
8325988	82-2982	1719121203		107-DP		S L 8396 #1	SOUTH ATCHAFALAYA BAY	0.0	TENNESSEE GAS PIP
-LINSCO EXPLORATION CO			RECEIVED:	03/02/83		JA: LA			
8325974	82-3172	1719922638		102-4		CONTINENTAL LAND & FUR CO #1	BAYOU PENCHANT	730.0	
-LYONS PETROLEUM INC			RECEIVED:	03/02/83		JA: LA			
8325992	82-1319	1704920181		103		M G BROOKS #1	HODGE	540.0	ARKANSAS LOUISIAN
-MARSHALL EXPLORATION INC			RECEIVED:	03/02/83		JA: LA			
8325985	82-3229	1703121491		103		HORN #6	BELLE BOWER	180.0	TENNESSEE GAS PIP
-MORAN EXPLORATION INC			RECEIVED:	03/02/83		JA: LA			
8326000	82-2429	1710922571		102-4		STATE LEASE 9414 #1	FOUR LEAGUE BAY 3940	0.0	DOW INTRASTATE GA
-PATRICK PETROLEUM CORP (MI)			RECEIVED:	03/02/83		JA: LA			
8326001	82-2257	1702321787		102-4		E R GARBER #1	SOUTH CREOLE	957.0	
-PIONEER PRODUCTION CORPORATION			RECEIVED:	03/02/83		JA: LA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8325971	82-8407	1708120381		102-2		JUSTIN L TEER #1 (COTTON VALLEY)	MARTIN	0.0	UNITED GAS PIPELI
-PLACID OIL COMPANY				RECEIVED:	03/02/83	JA: LA			
8325996	82-1136	1705922188		102-2		IPB LLS #22	WILDCAT	91.0	
-QUINTANA PETROLEUM CORP				RECEIVED:	03/02/83	JA: LA			
8325995	82-2589	1710121304		107-DP		MACPHER-WESSLND #7 GC MA 18 RA SU	GARDEN CITY	730.0	UNITED GAS PIPE L
-SPIRIT PETROLEUM				RECEIVED:	03/02/83	JA: LA			
8325988	82-8736	1702120786		102-4		MANVILLE 772 #1	WEST CLARKS FIELD	50.0	LOUISIANA INTRAST
-SPOONER PETROLEUM COMPANY				RECEIVED:	03/02/83	JA: LA			
8325982	82-3243	1702120846		102-4		MANVILLE 781 #2	EAST SARDIS CHURCH FI	55.0	TRUNKLINE GAS CO
-TEXACO INC				RECEIVED:	03/02/83	JA: LA			
8325997	82-0177	1711320968		102-4 105		EU-2 1 ERATH SU	ERATH	438.0	COLUMBIA GAS TRAN
8325978	82-0662	1770720104		103		SL 340 MOUND POINT #84	MOUND POINT	1.0	NATURAL GAS PIPEL
-TEXAS CRUDE INC				RECEIVED:	03/02/83	JA: LA			
8325976	82-2568	1704520754		107-DP		PETIT ANSE #8	AVERY ISLAND	180.0	LOUISIANA INTRAST
-TXO PRODUCTION CORP				RECEIVED:	03/02/83	JA: LA			
8325986	82-8821	1701320492		102-4 103		CONTINENTAL CAN "C" #1 PET RA SUA	LIBERTY HILL	46.0	UNITED GAS PIPE L
-WALSH AND WATTS INC				RECEIVED:	03/02/83	JA: LA			
8325975	81-5	1706100000		103		HOOD #1 U CV RA SUJ	TERRYVILLE	0.0	TEXAS GAS TRANSMI
**********									
TEXAS RAILROAD COMMISSION									
**********									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325846	F-8A-63898	4244531095		103		CLARE #11	PRENTICE (6700)	13.0	AMOCO PRODUCTION
-ALEXANDER G KASPAR				RECEIVED:	03/02/83	JA: TX			
8325862	F-08-63959	4237153675		103		A C ATKINS #1-B #102991	50 PECOS VALLEY (ELLE	109.5	DELHI GAS PIPELIN
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	03/02/83	JA: TX			
8325760	F-09-062933	4218130897		103		MARY #1	W F CHAFFIN SURVEY A-	0.0	LONE STAR GAS CO
8325775	F-09-063234	4218130895		103		O F K #1	HENRY KEITH SURVEY A-	0.0	LONE STAR GAS CO
-AMINOIL USA INC				RECEIVED:	03/02/83	JA: TX			
8325625	F-84-52192	4213135554		102-4 103		GUERRA #1	GUERRA (10,600') - PR	3650.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	03/02/83	JA: TX			
8325632	F-82-55359	4239131482		103		THOMAS O'CONNOR #11	GRETA /4400/	11.0	TRANSCONTINENTAL
-AMADARKO PRODUCTION COMPANY				RECEIVED:	03/02/83	JA: TX			
8325889	F-09-64021	4249732420		103		R E PETTY #2	BOONESVILLE (BEND CON	244.0	LONE STAR GAS CO
-ANDERSON PETROLEUM INC				RECEIVED:	03/02/83	JA: TX			
8325697	F-7C-060938	4218533962		103	107-TF	JOE FRIEND ESTATE "A" 3-25	ALDWELL RANCH (CANYON	308.0	OZONA PIPELINE CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	03/02/83	JA: TX			
8325860	F-7C-63951	4223531972		103		KETCHUM MT (CLEARFORK) UNIT 856-8	KETCHUM MOUNTAIN (CLE	9.0	J L DAVIS
-BALL PRODUCING CO				RECEIVED:	03/02/83	JA: TX			
8325743	F-78-062598	4236332976		102-4		HART 866 84 (103057)	CONQUEST (CONGL)	82.0	LONE STAR GAS CO
-BELCO PETROLEUM CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325857	F-7C-63865	4210500000		102-4		UNIVERSITY 29-15 #1	INGHAM (CLEAR FORK)	0.0	SOUTHWESTERN GAS
-BETA OIL CO				RECEIVED:	03/02/83	JA: TX			
8325701	F-83-061052	4248132099		102-4		L G RUST #1	HUNGERFORD S (4450) (	60.0	HOUSTON PIPELINE
-BETTIS BOYLE & STOVALL				RECEIVED:	03/02/83	JA: TX			
8325835	F-08-63863	4222732068		103		CARPENTER ESTATE #1	SARA-MAG (CANYON LOWE	55.0	GETTY OIL CO
8325836	F-89-63844	4223734981		103		OWENS 900 #1	WOODKIRK (STRAWN)	15.0	BRAZOS FUEL CO IN
8325833	F-89-63852	4223734270		103		RICHARDS #2	WOODKIRK (STRAWN)	15.0	BRAZOS FUEL CO IN
8325834	F-89-63862	4223734011		103		UPCHURCH #1	WOODKIRK (STRAWN)	26.0	BRAZOS FUEL CO IN
-BLAKE HAMMAN				RECEIVED:	03/02/83	JA: TX			
8325614	F-89-044491	4249700000		108-ER		FRANK HARLAN #1 41287	BOONSVILLE (BEND CONG	18.0	CITIES SERVICE CO
-BOMMER ENGINEERING CO				RECEIVED:	03/02/83	JA: TX			
8325781	F-81-06331	4250730425		102-4		MATTHEWS #4	MATTHEWS RANCH (OLMOS	14.6	MAN - GAS TRANSMI
-BORDER EXPLORATION CO				RECEIVED:	03/02/83	JA: TX			
8325642	F-84-56694	4242731578		103		NIMMO G U #1 4-P	YZAGUIRRE VICKSBURG (	132.0	VALERO TRANSMISSI
-BRAZOS PETROLEUM CO				RECEIVED:	03/02/83	JA: TX			
8325809	F-08-63646	4232931100		103		ERVIN #1	SPRABERRY (TREND AREA	22.0	PHILLIPS PETROLEU
-C F LAWRENCE & ASSOC INC				RECEIVED:	03/02/83	JA: TX			
8325790	F-08-63472	4237134019		103		MCMURTRY #2	LEHN - APCO (1650)	0.0	
8325791	F-08-63473	4237134041		103		MCMURTRY #3	LEHN - APCO (1600)	0.0	
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	03/02/83	JA: TX			
8325758	F-89-062829	4249732321		103		CLOSE ENCOUNTERS #1	BOONESVILLE (BEND CON	0.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	03/02/83	JA: TX			
8325735	F-81-062390	4246530409		102-3		WEST D #2	MASSIE (STRAWN)	75.0	INTRATEX GAS CO
-CLAYTON W WILLIAMS JR				RECEIVED:	03/02/83	JA: TX			
8325649	F-84-56594	4221900000		103	107-TF	MARY JOHNSON #1	MONTE CHRISTO	0.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP				RECEIVED:	03/02/83	JA: TX			
8325890	F-10-64024	4234130915		103		THOMPSON 2-263	PANHANDLE (RED CAVE)	3.0	COLORADO INTERSTA
-COMMAND PETROLEUM CORP				RECEIVED:	03/02/83	JA: TX			
8325774	F-78-063256	4236732254		102-4		CAROTHERS #2	MARMAC (MARBLE FALLS)	46.0	TEXAS UTILITIES F
-CONOCO INC				RECEIVED:	03/02/83	JA: TX			
8325656	F-7C-57846	4244330297		103		BROWN-BASSETT "228" #2 ID # NOT ASS	BROWN BASSETT (ELLENB	181.5	EL PASO NATURAL G
8325828	F-84-63842	4242700000		108		T B SLICK EST A-485 #73	RINCON (FRIO B-2)	21.7	TENNESSEE GAS PIP
8325868	F-84-63982	4242700000		108		T B SLICK EST H8222 #121	RINCON (VX8G BLOCKS 1	1.5	TENNESSEE GAS PIP
-COSTA RESOURCES INC				RECEIVED:	03/02/83	JA: TX			
8325859	F-08-63950	4210332516		102-4		ADAMS #4C	COSTA (CLEARFORK UPPE	0.0	INTER NORTH INC
-CPC EXPLORATION INC				RECEIVED:	03/02/83	JA: TX			
8325784	F-83-063332	4214931155		102-2		MIERTSCHIN UNIT	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
8325782	F-83-063330	4205132104		102-4		SCHRADER #1	CALDWELL (AUSTIN CHAL	0.0	FERGUSON CROSSING
8325783	F-83-063331	4214931153		102-2		WALTER PETERS "C" LEASE NO 15324	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
-D & S OIL & GAS PROPERTIES				RECEIVED:	03/02/83	JA: TX			
8325763		4208300000		102-4		A W GULLEY 8A-1 (163257)	GULLEY (KING SD)	33.0	EL PASO HYDROCARB
-DELTA DRILLING CO				RECEIVED:	03/02/83	JA: TX			
8325716	F-86-061641	4242300000		103		FERGUSON #1	CHAPEL HILL (RODESSA)	0.0	ETEXAS PRODUCERS
-DELTA PETROLEUM & ENERGY CORP				RECEIVED:	03/02/83	JA: TX			
8325652	F-83-57860	4204130655		102-2		CARGILL #1	KURTEN (WOODBINE "E")	16.4	FERGUSON CROSSING
8325654	F-83-57863	4204130661		102-2		DONALD CARROLL UNIT #2 WELL #1	KURTEN (BUDA)	537.6	FERGUSON CROSSING
8325655	F-83-57864	4204130627		102-2		SCAMARDO #1	KURTEN (WOODBINE)	6.6	FERGUSON CROSSING
8325653	F-83-57861	4204130662		102-2		TOHAI #1	KURTEN (BUDA)	354.0	FERGUSON CROSSING
-DESCO OIL CO				RECEIVED:	03/02/83	JA: TX			
8325786	F-83-063359	4224531544		102-4		ROBERT BAUER #1	BAUER RANCH	255.5	WINNIE PIPELINE C
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325853	F-10-63744	4234100000		108		COFFEE "I" #2	WEST PANHANDLE	14.0	PANHANDLE EASTERN
8325854	F-10-63745	4221100000		108		FRASS #1-107	CANADIAN NW	11.0	INTER NORTH INC
8325855	F-10-63946	4234100000		108		HARDWICK #1	PANHANDLE WEST	10.0	INTER NORTH INC
8325856	F-10-63947	4234100000		108		THATEN #1	PANHANDLE WEST	15.0	INTER NORTH INC
-DISCOVERY OPERATING INC				RECEIVED:	03/02/83	JA: TX			
8325772	F-88-063238	4232931853		103		HOFFERKAMP "A" #1	SPRABERRY (TREND AREA	21.6	PHILLIPS PETROLEU
-DIVIDEND PRODUCTION CO				RECEIVED:	03/02/83	JA: TX			
8325823	F-78-63829	4241734554		102-4		DAWSON-CONWAY 1-173	CHRISTI (LAKE SAND)	366.0	RAMPART NATURAL G
-DONALD C SLAWSON				RECEIVED:	03/02/83	JA: TX			
8325715	F-10-061618	4235731286		102-4		BOOKER TOWNSITE #1-118	BOOKER NORTH	140.0	
8325757	F-10-062797	4235731318		102-4		BORN #1-119	BOOKER NORTH	40.0	DELHI GAS PIPELIN
8325732	F-10-062266	4235731298		102-4		HENTON #1-59	BOOKER NORTH	80.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DORAN ENERGY CORP				RECEIVED:	03/02/83	JA: TX			
8325657	F-04-56488	4242731674		105		T RODRIGUEZ 84-B	GREGG WOOD S	36.0	VALERO INTERSTATE
-DUNIGAN OPERATING CO INC				RECEIVED:	03/02/83	JA: TX			
8325899	F-10-64861	4217931212		101		CINCO-OSBORNE (027853) #11	PANHANDLE GRAY COUNTY	6.0	PHILLIPS PETROLEU
-EDWIN L & BERRY K COX				RECEIVED:	03/02/83	JA: TX			
8325672	F-04-59479	4221531269		105		HIDALGO-WILLACY OIL CO #1	HAROTILE	360.0	TENNESSEE GAS PIP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	03/02/83	JA: TX			
8325902	F-10-66106	4221130254		108		GENE HOWE 92	HOWE RANCH (MORROW UP	11.0	EL PASO NATURAL G
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325824	F-02-63856	4205731205		102-4		EDC-DOW POWDERHORN RANCH 84 806426	POWDERHORN S W (FRIO	146.0	DOW CHEMICAL CO
-EXCELSIOR OIL CORP				RECEIVED:	03/02/83	JA: TX			
8325766	F-05-063054	4221500000		105		HOLLIDAY GLYNN #1-L	OPELIKA N W (ODESSA)	110.0	LONE STAR GAS CO
8325767	F-05-063056	4221500000		105		MAUDE SAYLORS #1	OPELIKA N E (ODESSA)	110.0	ENGEVCO NATURAL G
-EXXON CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325895	F-04-64853	4228330939		102-4	107-TF	ALEX JOHNSON HEIRS G U #1 WELL #1	BLOCKER (COTTON VALLE	182.0	DELHI GAS PIPELIN
8325797	F-08-63558	4208332166		103		ELIZABETH ARMSTRONG AB	MEANS SOUTH (WOLFCAMP	28.0	PHILLIPS PETROLEU
8325779	F-08-063290	4210300000		108		J B TUBB A/C 1 950	SAND HILLS (TUBB)	8.0	EL PASO NATURAL G
8325780	F-08-063299	4210300000		108		J B TUBB A/C 1 859	SAND HILLS	3.0	EL PASO NATURAL G
8325778	F-08-063297	4210300000		108		J B TUBB A/C 1 966	SAND HILLS (SAN ANGEL	4.0	EL PASO NATURAL G
8325858	F-01-63870	4231100000		108		J C DILWORTH 15 (087193)	DILWORTH (EDWARDS LIM	18.0	TRANSCONTINENTAL
8325776	F-08-063294	4208333182		105		J S MEANS A/C 4 8327	MEANS SOUTH (WOLFCAMP	15.0	PHILLIPS PETROLEU
8325896	F-04-64657	4204700000		108		MCGILL BROS 460 (092282)	KELSEY DEEP (18-E)	16.0	TRUNKLINE GAS CO
8325777	F-08-063296	4208333340		103		MEANS/SAN ANDRES/UNIT 83058	MEANS	15.0	PHILLIPS PETROLEU
8325897	F-04-64658	4242700000		108		M K MONTALVO 59 (93865)	SUN	5.0	TENNESSEE GAS PIP
8325798	F-08-63551	4208333383		103		R M MEANS 8605	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8325733	F-8A-062327	4216332513		105		ROBERTSON CLEARFORK UNIT #1131	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325800	F-8A-63554	4216332586		103		ROBERTSON CLEARFORK UNIT #1141	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325799	F-8A-63553	4216332576		103		ROBERTSON CLEARFORK UNIT #8493	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325751	F-8A-062713	4216332946		103		ROBERTSON CLEARFORK UNIT #8503	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325742	F-8A-062943	4216332318		103		ROBERTSON CLEARFORK UNIT #9701	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325761	F-8A-062942	4216332313		103		ROBERTSON CLEARFORK UNIT #9703	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8325871	F-04-63993	4220330930		102-4	107-TF	T B HATLEY HEIRS GAS UNIT #1 #1	BLOCKER (COTTON VALLE	250.0	DELHI GAS PIPELIN
-FIRST CALGARY USA INC				RECEIVED:	03/02/83	JA: TX			
8325670	F-7B-59276	4236531251		108		LEVI JENKINS #2	PALO PINTO COUNTY REG	4.0	SOUTHWESTERN GAS
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	03/02/83	JA: TX			
8325668	F-7C-58618	4243532755		103	107-TF	FLORENCE-HAMILL 26-#2	PHYLLIS SONORA	8.0	INTRATEX GAS CO
-FOUR WAY JOINT VENTURE				RECEIVED:	03/02/83	JA: TX			
8325822	F-7B-63824	4225532515		102-4		MILDRED TAYLOR #1 (19018)	FOUR WAY (FLIPPEN LIM	5.0	TEXAS UTILITIES F
-GENERAL PRODUCTION CORP				RECEIVED:	03/02/83	JA: TX			
8325737	F-03-062472	4228731304		102-2		HENRY KIPP UNIT 3 #1	GIDDINGS (AUSTIN CHAL	8.0	CLAJON GAS CO
-GENESIS PETROLEUM CORP				RECEIVED:	03/02/83	JA: TX			
8325720	F-04-061784	4213136699		102-4		G C HINOJOSA #2T UNASSIGNED	STARR BRITE W (5740')	14.0	HOUSTON PIPE LINE
-GETTY OIL COMPANY				RECEIVED:	03/02/83	JA: TX			
8325739	F-08-062485	4218332452		103		NORTH MCELROY UNIT #39142 RRC #203*	MCELROY	1.0	PHILLIPS PETROLEU
8325738	F-08-062484	4218332959		103		NORTH MCELROY UNIT #39150	MCELROY	1.0	PHILLIPS PETROLEU
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	03/02/83	JA: TX			
8325621	F-03-51234	4203921754		102-4		JOHN DOUGLAS SMITH ET AL #1	MANOR LAKE	1872.8	AMOCO GAS CO
-GRAHAM PRODUCTION CO				RECEIVED:	03/02/83	JA: TX			
8325703	F-03-061108	4248132347		102-4		KOSTKA UNIT #1	WHARTON SOUTH (FRIO 6	180.0	HOUSTON PIPE LINE
-GULF OIL CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325845	F-03-63887	4215731837		103		A E MYERS #28	THOMPSON	91.0	UNITED TEXAS TRAN
8325844	F-03-63885	4215731918		105		A E MYERS #29	THOMPSON	36.8	UNITED TEXAS TRAN
8325686	F-03-60266	4224331590		102-4		H M BROUSSARD #1	M HALF CIRCLE (18200)	193.0	
8325869	F-10-63984	4229531711		103		HAROLD PEERY #7-766	PEERY CLEVELAND/CLEVE	70.0	TRANSWESTERN PIPE
8325628	F-03-51774	4224531578		102-4		LEBLANC #1	M HALF CIRCLE (19200)	913.0	
-HANSON MINERALS CO				RECEIVED:	03/02/83	JA: TX			
8325637	F-02-55992	4225530869		103		THIELE GAS UNIT #1	HONDO CREEK NORTH (RE	365.0	UNITED GAS PIPE L
-HARWOOD EXPLORATION INC				RECEIVED:	03/02/83	JA: TX			
8325726	F-04-061948	4217531668		102-4		NOE SAENZ #1	STARR NORTH	438.0	SUN GAS CO
-HENRY PETROLEUM CORP				RECEIVED:	03/02/83	JA: TX			
8325669	F-8A-59027	4211580000		103		BULSTERBAUM "82" #1	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
-HEWIT & DOUGHERTY				RECEIVED:	03/02/83	JA: TX			
8325676	F-02-60128	4239100000		103		M P LAMBERT #111	TOM O'CONNOR (4150')	18.2	UNITED TEXAS TRAN
8325677	F-02-60129	4239100000		103		M P LAMBERT #112	GRETA (4400')	18.2	UNITED TEXAS TRAN
8325678	F-02-60132	4239100000		103		M P LAMBERT #114	GRETA (4400')	36.5	UNITED TEXAS TRAN
8325679	F-02-60133	4239100000		103		M P LAMBERT #115	TOM O'CONNOR (4400')	16.2	UNITED TEXAS TRAN
8325680	F-02-60134	4239100000		103		M P LAMBERT #116	TOM O'CONNOR (4400')	18.2	UNITED TEXAS TRAN
8325681	F-02-60137	4239100000		103		M P LAMBERT #118	TOM O'CONNOR (4400')	18.2	UNITED TEXAS TRAN
8325682	F-02-60139	4239100000		103		M P LAMBERT #121	TOM O'CONNOR (4400')	18.2	UNITED TEXAS TRAN
8325683	F-02-60140	4239100000		103		M P LAMBERT #122	TOM O'CONNOR (5900')	73.0	UNITED TEXAS TRAI
8325684	F-02-60141	4239100000		103		M P LAMBERT #123	TOM O'CONNOR (4400')	18.2	UNITED TEXAS TRAN
8325675	F-02-60124	4239100000		103		M P LAMBERT 108	TOM O'CONNOR (5900' S	73.0	UNITED TEXAS TRAN
-HILL JOHN H				RECEIVED:	03/02/83	JA: TX			
8325696	F-7C-060881	4243532777		103	107-TF	HILL EDWIN S MAYER JR "H1"	SAWYER (CANYON)	175.2	LONE STAR GAS CO
8325769	F-7C-063115	4243532758		103	107-TF	HILL MAY M ROY F-1	OLDWELL RANCH (CANYON	522.0	LONE STAR GAS CO
8325770	F-7C-063119	4243532825		103	107-TF	HILL-EDWIN S MAYER JR "GG-1"	SAWYER (CANYON)	627.8	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:	03/02/83	JA: TX			
8325704	F-04-061168	4247980000		102-4	103	BRUNI MINERAL "C" #3	JUANITA (LOBO)	0.0	HOUSTON PIPE LINE
8325704	F-04-061168	4247980000		107-TF		BRUNI MINERAL "C" #3	JUANITA (LOBO)	0.0	HOUSTON PIPE LINE
-HOUSTON OIL & GAS CO INC				RECEIVED:	03/02/83	JA: TX			
8325755	F-03-062761	4248100000		108		A W WITTIG #5 672269	TRANS-TEX (5900 CAT)	9.8	TENNESSEE GAS PIP
8325756	F-02-062763	4223900000		108		HOLLINGSWORTH #8-S 203459	MORALES (FRIO F)	13.8	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	03/02/83	JA: TX			
8325878	F-03-63988	4214931194		103		DOROTHY DAWN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-J E JERNIGAN DRILLING CO INC				RECEIVED:	03/02/83	JA: TX			
8325827	F-10-63841	4229531044		103		GRAVES #6	LIPSCOMB (CLEVELAND)	178.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325900	F-10-64064	4206531262		103		BURNETT "E" 968	PANHANDLE	33.0	GETTY OIL CO
-J-O'B OPERATING CO				RECEIVED:	03/02/83	JA: TX			
8325695	F-06-060869	4207330477		102-4		S M BEALY #1	PERCY WHEELER (TRAVIS	548.0	UNITED GAS PIPE L
-JIM BIRGE OIL & GAS				RECEIVED:	03/02/83	JA: TX			
8325664	F-7B-58377	4242933292		102-4		ELLEN JUSTICE #1 (1093203)	REYNOLDS P (STRAWN 21	37.0	SOUTHWESTERN GAS
-JOHN G MIDDLETON				RECEIVED:	03/02/83	JA: TX			
8325690	F-04-060731	4247932875		103		MIDDLETON #18-1 95356	LAS TIENDAS (OLMOS)	25.9	LONE STAR GAS CO
8325689	F-04-060727	4247932895		103		MIDDLETON #22-2 97863	LAS TIENDAS (OLMOS)	74.1	LONE STAR GAS CO
8325693	F-04-060735	4247932889		103		MIDDLETON #4 93022	LAS TIENDAS (OLMOS)	38.8	LONE STAR GAS CO
8325692	F-04-060734	4247932890		103		MIDDLETON FEE #5 97023	LAS TIENDAS (OLMOS)	70.3	LONE STAR GAS CO
8325691	F-04-060733	4247932899		103		MIDDLETON FEE #6 100145	LAS TIENDAS (OLMOS)	77.9	LONE STAR GAS CO
-K P EXPLORATION INC				RECEIVED:	03/02/83	JA: TX			
8325636	F-04-55827	4213135138		102-4		HUBBERD #1	HERBST WILCOX (HERBST	720.0	ESPERANZA PIPELIN
-KERR-MCGEE CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325852	F-10-63851	4221131348		102-2		BIGERT 7 #1	ALLISON PARKS (GRANIT	0.5	EL PASO NATURAL G
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	03/02/83	JA: TX			
8325613	F-10-63018	4229531037		105		LINCOLN BOOTH #2-638	UNIT (UPPER MORROW)	1277.5	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LEO ENERGY INC				RECEIVED:	03/02/83	JA: TX			
8325646	F-86-57358	42401131491		103	107-TF	SOUTH OAK HILL UNIT 1 #1	OAK HILL SOUTH (COTTO	765.0	TEXAS EASTERN TRA
-LHO RESOURCES INC				RECEIVED:	03/02/83	JA: TX			
8325611	F-88-41328	42103332574		103		UNIVERSITY #2-48	MCELROY	25.5	PHILLIPS PETROLEU
-LOUIS A HEWITT				RECEIVED:	03/02/83	JA: TX			
8325629	F-83-53213	42089305?5		102-4		HEIMAN-FLING #1-U	EASTER M (3248)	227.8	HYDROCARBON GATHE
-LULING OIL AND GAS CO INC				RECEIVED:	03/02/83	JA: TX			
8325817	F-78-63768	42083322?2		103		WHITTINGTON #3	GLEN COVE S	0.0	UNION TEXAS PETRO
-LYLES ENERGY INC				RECEIVED:	03/02/83	JA: TX			
8325810	F-78-63668	42133331818		103		SHULTS -D- #1 (15293)	FOSTER (MARBLE FALLS)	73.0	EL PASO HYDROCARB
-MANGUM OIL & GAS PRODUCTION				RECEIVED:	03/02/83	JA: TX			
8325729	F-86-06212A	42479980008		108		RACHAL A-1	LAS TIENDAS (OLMOS)	16.5	DELHI GAS PIPELIN
-MARATHON OIL COMPANY				RECEIVED:	03/02/83	JA: TX			
8325759	F-83-062910	42301312A5		103		ONIO-SOH UNIT 850-A	NORTH MARKHAM-NORTH B	133.2	TRANSCONTINENTAL
8325641	F-7C-56642	42383000??		108		UNIVERSITY -3955- #64	BIG LAKE	2.5	DORCHESTER GAS PR
-MARSHALL EXPLORATION INC				RECEIVED:	03/02/83	JA: TX			
8325721	F-83-061819	42313330402		102-4	103	GILBERT #1	MADISONVILLE W (GEORG	260.0	MAR/CON ENERGY IN
8325638	F-86-56458	42401314?2		103	107-TF	JONES #1	MINDEN (COTTON VALLEY	300.0	TEXAS UTILITIES F
8325616	F-86-56481	42365312?7		103	107-TF	OWENS-WEISS #1-LT	BELLE BOWER (COTTON V	30.0	TENNESSEE GAS PIP
8325615	F-86-56480	42365312?7		103		OWENS-WEISS #1-UT	BELLE BOWER (TRAVIS P	150.0	TENNESSEE GAS PIP
8325694	F-86-060760	42301315?3		102-4	103	SAMMONS #1	PURT W (RODESSA 10200	90.0	ESPERANZA PIPELIN
8325617	F-86-56750	42401312?3		103		STONE #1-LT	PENN-GRIFFITH W (PETT	18.0	HENDERSON CLAY PR
-MCCANN CORP				RECEIVED:	03/02/83	JA: TX			
8325688	F-EA-060569	42115331?26		103		F M FUHRMAN #1	ACKERLY (DEAN)	0.0	TEXACO INC
-MCCORMICK OPERATING CO				RECEIVED:	03/02/83	JA: TX			
8325650	F-85-57818	42295305?1		102-2	107-TF	BILLY #1	KOSSE SE (COTTON VALL	150.0	TEXAS UTILITIES F
8325651	F-85-57819	42295305?9		102-3	107-TF	FOSHEE #1	KOSSE SE (BOSSIER)	150.0	TEXAS UTILITIES F
8325645	F-83-57240	42245315?6		102-4		WINZER UNIT #1	DEVIL	1825.6	WINNIE PIPELINE C
-MGF OIL CORP				RECEIVED:	03/02/83	JA: TX			
8325792	F-8A-63484	42115331?6		103		KOSLAN #2	ACKERLY (DEAN SAND)	51.5	GETTY OIL CO
8325612	F-7C-41831	42383000??		103		UNIVERSITY "18-B" #1	SPRAGBERRY (TREND AREA	0.0	J L DAVIS
-MID-AMERICA PETROLEUM INC				RECEIVED:	03/02/83	JA: TX			
8325857	F-7C-63948	42383321?8		103		TURNER "B" #3	SPRAGBERRY (TREND AREA	11.0	INTER NORTH INC
8325858	F-7C-63949	42383322?9		103		TURNER "B" #4	SPRAGBERRY (TREND AREA	15.0	INTER NORTH INC
-MIN-TEX EXPLORATION CORP				RECEIVED:	03/02/83	JA: TX			
8325775	F-7B-063285	42367323?1		102-4		TIDWELL #2	MARMAC (MARBLE FALLS)	187.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	03/02/83	JA: TX			
8325609	F-89-031586	42497000?0		105-ER		BESSIE DICKENSON #2	BOONSVELLE (BEND CONG	9.0	NATURAL GAS PIPEL
8325821	F-89-63804	42497000??		108		E P COWLIMO #1 13774	LEFTWICK (ATOKA 5850)	0.0	NATURAL GAS PIPEL
8325722	F-7C-061820	42451000??		102-4	103	FREYSCHLAG UNIT "B" #1	KWB (STRAWN)	273.5	ESPERANZA PIPELIN
8325728	F-7C-062062	42401310?8		102-4	103	FREYSCHLAG 220 A #1L	KWB (STRAWN)	266.0	ESPERANZA PIPELIN
8325839	F-89-63800	42497000??		108		JAMES E BUMPASS #1 14484	BRIDGEPORT/ATOKA CONG	0.0	NATURAL GAS PIPEL
8325838	F-85-53227	42395000??		103	107-TF	LLOYD WILLIAMS #1	BALD PRAIRIE (COTTON	0.0	UNITED TEXAS TRAN
8325831	F-89-63847	42257000??		108		ORNEE STEWART #4 13723	CUMDIFF SOUTH (CONGL	0.0	NATURAL GAS PIPEL
8325723	F-85-061821	42392306?8		103	107-TF	PAUL ROTHERMEL #1	POKEY EAST (COTTON VA	273.5	TEXAS UTILITIES F
8325820	F-89-63801	42497000??		108		R P MALONE -B- #1 18868	ALVORD (CADDO CONGL)	0.0	NATURAL GAS PIPEL
-MONTEREY PETROLEUM CORP				RECEIVED:	03/02/83	JA: TX			
8325785	F-84-061221	42479332?5		102-2	107-TF	APACHE #2	GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
8325786	F-84-061356	42479329?8		102-2	107-TF	BLOCKER RANCH "H" 1841 #4	GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
8325787	F-84-061363	42479329?8		102-2	107-TF	BLOCKER RANCH "H" 1843 #2	APACHE RANCH (OLMOS)	0.0	SEAGULL PIPELINE
8325788	F-84-061365	42479332?8		102-2	107-TF	BLOCKER RANCH "H" 1843 #5	GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
-MUELLER ENGINEERING CORP				RECEIVED:	03/02/83	JA: TX			
8325702	F-82-061061	42175000??		102-4		WALLACE SHAY #1	CLARKSON	91.0	UNITED GAS PIPELI
-MURPHY H BAXTER				RECEIVED:	03/02/83	JA: TX			
8325888	F-83-63417	42157313??		102-4		SOUTH KATY GAS UNIT #2 WELL #1	KATY S (FIRST WILCOX)	73.0	UNITED TEXAS TRAN
-NORTH RIDGE CORP				RECEIVED:	03/02/83	JA: TX			
8325725	F-78-061847	42429334?3		102-4	103	J B MORTON #1	RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
-PANHANDLE PLUGGERS INC				RECEIVED:	03/02/83	JA: TX			
8325814	F-10-63734	42179312??		103		BENEDICT (085?6) #12	PANHANDLE GRAY COUNTY	4.3	PHILLIPS PETROLEU
-PARAMOUNT PRODUCING INC				RECEIVED:	03/02/83	JA: TX			
8325842	F-10-63882	42195000??		108		SCHUBERT #2 (049598)	HANSFORD (MORROW UPPE	10.0	INTER NORTH INC
-PARKER & PARSLEY INC				RECEIVED:	03/02/83	JA: TX			
8325745	F-88-063052	42317000??		103		GLASS H #1	SPRAGBERRY (TREND AREA	0.0	ADOBE OIL & GAS C
8325744	F-88-063051	42329310?5		103		JUDKINS "A" #1	SPRAGBERRY (TREND AREA	15.0	EL PASO NATURAL G
-PEERLESS DRILLING CO				RECEIVED:	03/02/83	JA: TX			
8325748	F-78-062655	42367322?9		102-4		WRIGHT #1 ID NUMBER APPLIED FOR	MOBY DICK (CONGL)	1.4	TEXAS UTILITIES F
-PENNZOIL PRODUCING COMPANY				RECEIVED:	03/02/83	JA: TX			
8325749	F-86-062663	42365514?3		103	107-TF	MORGAN UNIT #4	CARTHAGE/COTTON VALLE	475.0	UNITED GAS PIPE L
-PENTA ENERGY CORP				RECEIVED:	03/02/83	JA: TX			
8325788	F-83-63418	42041308?2		107-2		MAHONEY SHANNON #2	KURTEN (WOODBINE)	150.0	FERGUSON CROSSING
-PETRO-MAC INC				RECEIVED:	03/02/83	JA: TX			
8325811	F-78-63675	42461328?5		103		MCANDREWS #1 (10280)	LAKE ABILENE (CROSS C	42.0	LONE STAR GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	03/02/83	JA: TX			
8325888	F-84-64019	42227314?2		108		BELLMOLIA #6 (02897)	IATAN EAST (HOWARD)	1.0	GETTY OIL CO
8325864	F-10-63967	42421000??		108		STEVENS M #1	PANHANDLE WEST	0.0	MICHIGAN WISCONSI
8325648	F-10-57560	42233000??		108		CHAIN A #1	PANHANDLE - HUTCHINSO	0.0	PANHANDLE EASTERN
8325886	F-08-64017	42303045?4		108		EMBAR-S 826 (08769)	GOLDSMITH (5600')	18.0	EL PASO NATURAL G
8325624	F-10-52150	42179000??		108		EMIL #2	PANHANDLE GRAY	0.0	
8325674	F-10-60082	42179000??		108		GATSY #3	PANHANDLE - GRAY	0.0	
8325887	F-08-64018	42135090??		108		GS ADOBE UNIT #3985 (18713)	GOLDSMITH (5600')	1.0	EL PASO NATURAL G
8325626	F-08-52243	42135210?3		108		JESSIE B #1	GOLDSMITH (GRAYBURG)	0.0	EL PASO NATURAL G
8325750	F-10-062677	42179000??		108		JOHNSON AA #17	PANHANDLE GRAY	0.0	
8325631	F-10-53570	42179000??		108		JOHNSON T #5	PANHANDLE GRAY	0.0	
8325885	F-08-64016	42135204?8		108		M PENWELL UNIT #128 (21556)	PENWELL	2.0	EL PASO NATURAL G
8325863	F-10-63966	42421000??		108		PATTULLO #2	PANHANDLE WEST	0.0	MICHIGAN WISCONSI
-PITCOCK INC				RECEIVED:	03/02/83	JA: TX			
8325622	F-78-51616	42363000??		108		ROSS WATSON #5 078045	LONE CAMP WEST	0.0	SOUTHWESTERN GAS
-R A W ENERGY CORP				RECEIVED:	03/02/83	JA: TX			
8325665	F-89-58412	42497323?9		102-4		BATES #1	JONESIE (4400)	0.0	
8325742	F-78-062579	42367324?2		102-4		HODGES #4	BRA (STRAWN)	250.0	SOUTHWESTERN GAS
8325741	F-78-062578	42367323?8		102-4		JORDAN #2	CABBAGE PATCH (BIG SA	250.0	EMPIRE PIPELINE C
8325666	F-78-58413	42363328?2		102-4		PRIDDY #1	BRANSON W. (CONGL UP)	0.0	SOUTHWESTERN GAS
8325685	F-78-60239	42367322?5		102-4		WEATHERFORD CHAMBER OF COMMERCE #1	SEVEN-ELEVEN (STRAWN)	380.0	SOUTHWESTERN GAS
-R C BENNETT				RECEIVED:	03/02/83	JA: TX			
8325826	F-88-63834	42135304?7		103		SHELL COWDEN #2	HARPER	11.0	PHILLIPS PETROLEU
-R C BENNETT ?DO				RECEIVED:	03/02/83	JA: TX			
8325815	F-88-63732	42135319?3		103		SHELL-COWDEN #1	HARPER	0.0	PHILLIPS PETROLEU
-RALPH L WAY INC				RECEIVED:	03/02/83	JA: TX			
8325873	F-7C-63995	42383323?3		103		UNIVERSITY-UNION "17" #4	FARMER (SAN ANDRES)	7.2	INTER NORTH INC
8325875	F-7C-63997	42383323?6		103		UNIVERSITY-UNION "17" #7	FARMER (SAN ANDRES)	10.4	INTER NORTH INC
8325874	F-7C-63996	42383323?0		103		UNIVERSITY-UNION "17" #6	FARMER (SAN ANDRES)	7.2	INTER NORTH INC
-REPUBLIC OIL & GAS CORP				RECEIVED:	03/02/83	JA: TX			
8325647	F-86-57418	42427316?8		102-4	103	E P ANDERSON #1	KELSEY SOUTH 5730' (P	218.0	SUN EXPLORATION &
-RICHEY & CO INC				RECEIVED:	03/02/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8325709	F-89-061385	4249732622		103		B & A COCANOUGHER #1
-RIO BRAVO OIL CO INC				RECEIVED:	03/02/83	JA: TX
8325843	F-82-63884	4212331217		102-4		M SOMMER ET AL
-ROBERT P LAMMERTS				RECEIVED:	03/02/83	JA: TX
8325699	F-83-060969	4204100000		102-2		PETER SCOTT #1
-ROPAR OPERATING CO				RECEIVED:	03/02/83	JA: TX
8325751	F-89-062173	4223734655		103		S B EASTER #1
-SAG ENERGY INC				RECEIVED:	03/02/83	JA: TX
8325768	F-78-063067	4236732362		102-4		MCCULLOH UNIT #1
-SAGE ENERGY CO				RECEIVED:	03/02/83	JA: TX
8325673	F-83-59497	4214931483		102-2		HACKEBEIL #1 RRC ID #185275
8325812	F-7C-63672	4238332340		103		UNIVERSITY 7-GA #6A RRC #08876
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	03/02/83	JA: TX
8325724	F-84-061832	4247932460		102-4		S J MARTIN #2-A
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	03/02/83	JA: TX
8325634	F-83-59607	4228731255		102-2	103	MICHAEL #2
8325673	F-83-59469	4228700000		103		FROSKE #1
8325687	F-83-060502	4228700000		103		REGIAN UNIT #1
8325667	F-83-58565	4228700000		103		SANDER #1
-SAXON OIL COMPANY				RECEIVED:	03/02/83	JA: TX
8325718	F-88-061605	4231700000		103		RICHARDS #2
8325713	F-7C-061409	4238300000		103		SANKEY #2
8325730	F-7C-062142	4238300000		103		UNIVERSITY 1324 #1
8325712	F-7C-061407	4238300000		103		UNIVERSITY 1324 #2
8325727	F-7C-061975	4238300000		103		UNIVERSITY 1324 #3
8325711	F-7C-061406	4231700000		103		UNIVERSITY 1324 #4
-SCANDRILL INC				RECEIVED:	03/02/83	JA: TX
8325658	F-89-58180	4223736663		102-4	103	DUERSON #12
8325644	F-18-57109	4240330916		102-4	103	REDDING #1
8325814	F-78-63725	4244733185		103		ROBINSON #2
8325649	F-89-57641	4223734435		102-4	103	SANDERS #6
8325785	F-89-063537	4250335857		102-4		SCAN-KING "E" #4
-SHELL OIL CO				RECEIVED:	03/02/83	JA: TX
8325830	F-8A-63846	4258132297		103		DENVER UNIT #2937
8325829	F-8A-63845	4258132047		103		DENVER UNIT #5719
-SNOW OIL CO				RECEIVED:	03/02/83	JA: TX
8325852	F-7B-63924	4213331645		102-4		MONROE WALKER #1-C (14812)
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	03/02/83	JA: TX
8325865	F-7C-63971	4209530411		102-4		MALCORINE W STASNEY #1
-STALLWORTH OIL & GAS INC				RECEIVED:	03/02/83	JA: TX
8325851	F-7B-63921	4222108000		108		CARTWRIGHT #3 (#45325)
8325848	F-7B-63918	4222100000		108		CARTWRIGHT #4 (#52291)
8325841	F-7B-63954	4236700000		108		CARTWRIGHT A-1 (#39292)
8325850	F-7B-63920	4236700000		108		CARTWRIGHT A-2 (#45221)
8325847	F-7B-63917	4222100000		108		CARTWRIGHT A-3 (#52294)
8325848	F-7B-63918	4236700000		108		LOKEY #4 (#52296)
-SUN OIL CO				RECEIVED:	03/02/83	JA: TX
8325610	F-84-58165	4221531968		103		J D JEFFRESS NCT-2 #12
8325607	F-84-21938	4224900000		108		SEELIGSON UNIT #1-92
8325606	F-84-21937	4224900000		108		SEELIGSON UNIT #14-12C
8325605	F-84-18025	4224900000		108		SEELIGSON UNIT #16-70
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/02/83	JA: TX
8325892	F-88-64035	4233532140		103		B ANDERSON "A" #10
8325643	F-84-056971	4224900000		108-ER		B H DUNLAP #63
8325877	F-8A-64054	4258132210		103		BENNETT RANCH UNIT #338
8325825	F-8A-63832	4258132217		103		BENNETT RANCH UNIT #341
8325660	F-84-58231	4242700000		102-4		D LAUREL #12
8325881	F-88-64018	4246131926		103		DAMRON "192-A" #2
8325883	F-88-64013	4246131930		103		DAMRON "192-A" #3
8325840	F-88-63876	4246130659		103		DAMRON "192" #1
8325876	F-88-64003	4246131925		103		DAMRON "1928" #2
8325866	F-88-63975	4246131935		103		DAMRON "1928" #3
8325894	F-88-64036	4213500000		108		E GOLDSMITH (SA) UT #27-2
8325839	F-88-63875	4213533995		103		EAST GOLDSMITH HOLT UT #1908
8325893	F-88-64034	4213500000		108		FOSTER JOHNSON UNIT #15-13
8325891	F-88-64032	4245131162		103		I L ELLWOOD #4
8325882	F-88-64012	4233532144		103		J F MCCABE "A" #12
8325888	F-88-64009	4233532388		103		J F MCCABE "A" #13
8325884	F-88-64014	4233532394		103		J F MCCABE "C" #2
8325841	F-88-63875	4233532393		103		J F MCCABE "C" #3
8325839	F-84-56575	4236531224		103	107-TF	JOHN S NEAL #2
8325698	F-7C-025703	4238300000		108-ER		RUPERT P RICKER "E" #2
8325879	F-8A-64006	4221933513		103		SOUTHEAST LEVELLAND UT #285
8325878	F-88-64005	4233531050		103		V T MCCABE #36
-SYTRO ENERGY CORP				RECEIVED:	03/02/83	JA: TX
8325698	F-78-060954	4222130703		102-4		HENDRICKS #1
-TANA OIL & GAS CORP				RECEIVED:	03/02/83	JA: TX
8325717	F-84-061689	4221531273		102-4	107-TF	HAMMAN RANCH #1
8325901	F-82-64065	4229732971		102-4		WILLIAMS #1
-TAYLOR OPERATING COMPANY				RECEIVED:	03/02/83	JA: TX
8325867	F-89-63979	4249700000		103		FORMAN #1 (22111)
8325818	F-89-63772	4207700000		103		R G RUMAGE #2 (22565)
-TEE OPERATING CO				RECEIVED:	03/02/83	JA: TX
8325633	F-83-55505	4248132293		102-4		APPLING ESTATE #1
-TEMPLETON ENERGY INC				RECEIVED:	03/02/83	JA: TX
8325771	F-82-063224	4217531485		102-4		RAMSEY #1
-TEXACO INC				RECEIVED:	03/02/83	JA: TX
8325618	F-84-47826	4242731514		102-4	103	GUERRA SHARE 90 #17
8325619	F-84-49892	4242731628		102-4		RUDOLFO ESCOBAR NCT-1 #1
8325747	F-88-062616	4241131234		103		STERLING "J" FEE #6
8325734	F-8A-062346	4216532410		103		WHARTON UNIT #101
-TEXAS CRUDE INC				RECEIVED:	03/02/83	JA: TX
8325795	F-8A-63516	4216531168		103		NORMAN #5-9
8325794	F-8A-63515	4216500000		103		NORMAN #6-9
8325793	F-8A-63514	4216500000		103		NORMAN #7-9
8325796	F-8A-63517	4216500000		103		NORMAN #8-9
-THOMAS C CANAN				RECEIVED:	03/02/83	JA: TX
8325813	F-78-63786	4242933398		103		CURRY "D" #1
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	03/02/83	JA: TX
8325748	F-7C-062525	4210534084		103	107-TF	HAUGLSTEIN #1
-TIPPERARY OIL AND GAS CORP				RECEIVED:	03/02/83	JA: TX
8325887	F-81-63605	4216331733		103		ARTHUR HURT "B" #1
8325886	F-81-63604	4216331738		103		ARTHUR HURT "B" #2
8325885	F-81-63603	4216331735		103		ARTHUR HURT "B" #3

FIELD NAME	PROD	PURCHASER
BOONSVILLE (BEND CONG	275.0	NATURAL GAS PIPEL
KAMITT (ROEDER) FIELD	98.0	INTRASTATE GATHER
BRYAN (WOODBINE)	8.0	FERGUSON CROSSING
CRUM	180.0	LONE STAR GAS CO
MOBY DICK (STRAWN)	237.0	SOUTHWESTERN GAS
GIDDINGS (EDWARDS) GA	390.0	PHILLIPS PETROLEU
FARMER (SAN ANDRES)	1.4	INTER NORTH INC
WEST MORITAS CREEK (W	580.0	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	36.5	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	189.5	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
KREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
SPRADBERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRADBERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRADBERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRADBERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRADBERRY (TREND AREA	0.0	PHILLIPS PETROLEU
CHAWN (STRAWN)	36.5	LONE STAR GAS CO
REDDING (HUNTON)	174.1	EL PASO NATURAL G
THROCKMORTON COUNTY R	120.8	THROCKMORTON GAS
SHAR-PAT (CONGL)	131.4	LONE STAR GAS CO
WOODWARD RANCH (STRAW	14.6	J H TAYLOR GAS CO
WASSON	186.2	SHELL OIL CO
WASSON	0.4	SHELL OIL CO
PAT KAHAN (MISS)	63.0	LONE STAR GAS CO
FUZZY CREEK	18.0	J-W OPERATING CO
LOKEY (ATOKA 1200)	3.5	LONE STAR GAS CO
LOKEY (ATOKA 1200)	20.1	LONE STAR GAS CO
LOKEY (ATOKA 1250)	3.0	LONE STAR GAS CO
LOKEY (ATOKA 1200)	6.6	LONE STAR GAS CO
LOKEY (ATOKA 1250)	14.9	LONE STAR GAS CO
LOKEY (ATOKA 1250)	9.3	LONE STAR GAS CO
NORTH JEFFRESS	350.0	
SEELIGSON	14.0	TENNESSEE GAS PIP
SEELIGSON	19.0	TENNESSEE GAS PIP
SEELIGSON	21.0	TENNESSEE GAS PIP
JAMESON NORTH (STRAWN	7.0	LONE STAR GAS CO
SEELIGSON	8.0	CHANNEL INDUSTRIE
WASSON	38.0	SHELL OIL CO
WASSON	25.0	SHELL OIL CO
SUN NORTH	833.0	
MCELROY	11.0	PHILLIPS PETROLEU
MCELROY	8.0	PHILLIPS PETROLEU
MCELROY SOUTHEAST (DE	68.0	PHILLIPS PETROLEU
MCELROY	10.0	PHILLIPS PETROLEU
MCELROY	28.0	PHILLIPS PETROLEU
GOLDSMITH EAST (SAN A	2.0	PHILLIPS PETROLEU
GOLDSMITH EAST (HOLT)	10.0	PHILLIPS PETROLEU
FOSTER	0.5	EPX CO
ROSE CREEK (WOLFCAMP	26.0	LONE STAR GAS CO
JAMESON NORTH (STRAWN	4.0	LONE STAR GAS CO
JAMESON N (ELLEN)	45.0	LONE STAR GAS CO
JAMESON N (ELLEN)	10.0	LONE STAR GAS CO
JAMESON N (ELLEN)	7.0	LONE STAR GAS CO
CARTHAGE	200.0	DELHI GAS PIPELIN
SPRADBERRY	0.0	EL PASO NATURAL G
LEVELLAND	28.0	AMOCO PRODUCTION
JAMESON NORTH (STRAWN	12.0	LONE STAR GAS CO
BRANSON N (CONGL UPPE	157.0	INTRASTATE GATHER
MONTE CHRISTO (VICKSB	1000.0	TECO PIPELINE CO
PATTESON RANCH (11,70	365.0	TECO PIPELINE CO
ALVORD (ATOKA CONGL)	13.1	LONE STAR GAS CO
BUFFALO SPRINGS SOUTH	11.3	LONE STAR GAS CO
DABOVAL NE (6650)	0.0	
BIG OAK (WILCOX 10500	150.0	
ROMA	150.0	
DRACO	912.5	TENNESSEE GAS PIP
CONGER (PENN)	83.6	VALERO TRANSMISSI
HARRIS	0.0	PHILLIPS PETROLEU
TEX-FLOR/WOLFCAMP	7.5	PHILLIPS PETROLEU
TEX-FLOR/WOLFCAMP	18.0	PHILLIPS PETROLEU
TEX-FLOR/WOLFCAMP	13.0	PHILLIPS PETROLEU
TEX/FLOR/WOLFCAMP	3.5	PHILLIPS PETROLEU
STEPHENS COUNTY REGUL	24.0	SOUTHWESTERN GAS
OZONA NW (CANYON)	360.0	SHELL OIL CO
PEARSALL (AUSTIN CHAL	0.4	TIPPERARY CORP
PEARSALL (AUSTIN CHAL	0.4	TIPPERARY CORP
PEARSALL (AUSTIN CHAL	18.0	TIPPERARY CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8325804	F-81-63691	4216331736		103		ARTHUR HURT "3" 85	PEARSALL (AUSTIN CHAL	15.0	TIPPERARY CORP
8325803	F-81-63690	4216331731		103		ARTHUR HURT "B" 86	PEARSALL (AUSTIN CHAL	18.0	TIPPERARY CORP
8325802	F-81-63599	4216331747		103		ARTHUR HURT "B" 87	PEARSALL (AUSTIN CHAL	18.0	TIPPERARY CORP
8325801	F-81-63598	4216331729		103		ARTHUR HURT "B" 88	PEARSALL (AUSTIN CHAL	11.0	TIPPERARY CORP
-TOM BROWN INC				RECEIVED:	03/02/83	JA: TX			
8325872	F-08-63996	4231732590		103		CAFFEY #1	SPRABERRY (TREND AREA	14.0	PHILLIPS PETROLEU
-TRI-COUNTY OIL CORP				RECEIVED:	03/02/83	JA: TX			
8325898	F-78-64860	4213534104		102-4		W B WRIGHT #3	WRIGHT (MARBLE FALLS	80.0	SOUTHWESTERN GAS
-TRINITY EXPLORATION CO				RECEIVED:	03/02/83	JA: TX			
8325620	F-78-58647	4215300000		108		CHILDERS #1	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
-TRINITY RESOURCES INC				RECEIVED:	03/02/83	JA: TX			
8325627	F-82-52377	4223900000		102-4	103	J M BENNETT UNIT 1-C	TWIN LAKES (7220 SAND	0.0	DELHI GAS PIPELIN
8325628	F-82-52649	4223900000		102-4	103	J M BENNETT UNIT 1-T	TWIN LAKES (7700 SAND	72.0	COASTAL CRUDE TRU
-TXO PRODUCTION CORP				RECEIVED:	03/02/83	JA: TX			
8325753	F-7C-862736	4210533906		103	107-TF	BAGGETT "A" #2	OZONA NW (CANYON)	4.0	SHELL OIL CO
8325635	F-05-55826	4216330735		102-4	107-TF	CARTWRIGHT "A" #1	NAN-SU-GAIL (BOSSIER	0.0	
8325714	F-83-861564	4204931301		102-4		SPALINGER #1	BOENING (6350')	0.0	DELHI GAS PIPELIN
-VENUS OIL COMPANY				RECEIVED:	03/02/83	JA: TX			
8325659	F-03-55218	4248100000		102-4		WILLIAM GOERIG	LOUISE NORTH	0.0	DELHI GAS PIPELIN
-VINSON EXPLORATION				RECEIVED:	03/02/83	JA: TX			
8325745	F-7C-862610	4210500000		102-4		UNIV "33-F" #2	INGHAM (QUEEN)	82.0	SOUTHWESTERN GAS
8325746	F-7C-862612	4210500000		102-4		UNIV "34-29" #1	INGHAM (QUEEN)	54.0	SOUTHWESTERN GAS
8325744	F-7C-862609	4210500000		102-4		UNIV "6-38" #1	INGHAM (QUEEN)	25.0	SOUTHWESTERN GAS
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	03/02/83	JA: TX			
8325905	F-08-64121	4210310345		108		STATE "LC" #2	DUNE	0.0	EL PASO NATURAL G
-WATCO ENERGY INC				RECEIVED:	03/02/83	JA: TX			
8325661	F-7C-58248	4239932295		102-4	103	BALES #1	ANDERGRAM (PALO PINTO	26.4	UNION TEXAS PETRO
8325787	F-7C-63413	4239932258		102-4		RODNEY FLANAGAN #3	O V (FRY LOWER)	17.5	ODESSA NATURAL CO
-WCS PETROLEUM INC				RECEIVED:	03/02/83	JA: TX			
8325752	F-03-862731	4205132371		102-2		MILLIE PAGEL #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	03/02/83	JA: TX			
8325708	F-78-860978	4235331303		102-4		L W SWEET #4	SWEET	13.0	LONE STAR GAS CO
-WESTERN HILLS OIL & GAS CO INC				RECEIVED:	03/02/83	JA: TX			
8325754	F-78-862755	4236732289		102-4		LAGO LINDO #1 ID NUMBER APPLIED FOR	PEASTER SE (MARBLE FA	2.0	TEXAS UTILITIES F
-WILLIAM PERLMAN				RECEIVED:	03/02/83	JA: TX			
8325719	F-7C-861773	4243532609		103	107-TF	ADA CAUTHORN 403	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
8325665	F-7C-58269	4243532812		102-2	107-TF	MACK CAUTHORN #1295	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
8325662	F-7C-58268	4243532809		102-2	107-TF	MACK CAUTHORN #1296	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	03/02/83	JA: TX			
8325736	F-82-862438	4205731280		102-4		F H WELDER "D" 88	KATIE WELDER F-4	7.0	SEAGULL PIPELINE
-WINDSOR GAS CORP				RECEIVED:	03/02/83	JA: TX			
8325718	F-7C-861772	4243532659		103	107-TF	DUKE WILSON #1364	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
-WOOD & LOCKER INC				RECEIVED:	03/02/83	JA: TX			
8325789	F-08-63459	4217331275		102-4		NUTT 35 #2	NUTT (LOWER WOLFCAMP)	37.0	EL PASO NATURAL G

WEST VIRGINIA DEPARTMENT OF MINES

-DORAN & ASSOCIATES INC				RECEIVED:	03/01/83	JA: WV			
8325941		4704102804		108		CECIL REXROAD #1 KL-172	FREEMANS CREEK DISTRI	25.0	CONSOLIDATED GAS
8325934		4703322241		108		JOHN DYE #1 KL-127	SANDIS DISTRICT	25.0	CONSOLIDATED GAS
8325932		4703301982		108		MAE ROGERS #1 KL-88	EAGLE DISTRICT	25.0	CONSOLIDATED GAS
8325930		4703302063		108		MCDONALD #1 KL-218	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8325931		4703302086		108		REBECCA MASON #1 KL-220	EAGLE DISTRICT	25.0	CONSOLIDATED GAS
8325928		4704900652		108		RICHARD HARDESTY #1 KL-107	MANNINGTON DISTRICT	25.0	CONSOLIDATED GAS
8325927		4704102865		108		U REXROAD #2 KL-173	FREEMANS CREEK DISTRI	25.0	CONSOLIDATED GAS
8325935		4704102866		108		U REXROAD #3 KL-174	FREEMANS CREEK	25.0	CONSOLIDATED GAS
8325929		4703302232		108		W H JETT #1 KL-224	ELK DISTRICT	25.0	CONSOLIDATED GAS
-FRANCIS E CAIN				RECEIVED:	03/01/83	JA: WV			
8325916		4701303539		103		MRYLA STEVENS #1	CENTER	0.0	ROARING FORK GAS
8325915		4701303120		108		W S FERRELL #4	CENTER	0.0	CABOT CORP
-H D WELLS OIL & GAS EXPL & DEVEL IN				RECEIVED:	03/01/83	JA: WV			
8325939		4703501680		103		OLIVER Z LOGSTON #1	POND CREEK	0.0	GAS TRANSPORT INC
8325940		4703501679		103		W A DELANEY HEIRS #1	POND CREEK	12.0	GAS TRANSPORT INC
-MERT DEVELOPMENT INC				RECEIVED:	03/01/83	JA: WV			
8325917		4708101665		103		MILLER #1	COVE DISTRICT	80.0	COLUMBIA GAS TRAN
8325918		4708101580		103		MOUSER #1	GLADE	85.0	COLUMBIA GAS TRAN
8325919		4708300559		103		POSSON #1	ROARING CREEK	50.0	COLUMBIA GAS TRAN
-PATRICK PETROLEUM CORP (MI)				RECEIVED:	03/01/83	JA: WV			
8325909		4700101136		108		BARTLETT-MARSH B-354	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8325913		4704700515		108		ELIZABETH ESTEP #1	SANDY RIVER DISTRICT	0.0	CABOT CORP
8325910		4700100900		108		GLADLYN MCDERMITT #1	PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
8325906		4700101269		108		J H DUCKWORTH B-1538	PLEASANT	0.0	CONSOLIDATED GAS
8325911		4700100717		108		J L MCBEE #1	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8325938		4704102571		108		JOHN A SUTTON B-1586	HACKERS CREEK DISTRIC	0.0	CONSOLIDATED GAS
8325908		4700101181		108		KELLER-MURPHY B-698	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8325912		4710900709		108		LASHER ESTATE #1	HUFF CREEK DISTRICT	0.0	CABOT CORP
8325914		4703300747		108		LATE C SMITH #1	SIMPSON DISTRICT	0.0	PETRO-LEWIS CORP
8325933		4700101142		108		RUTH WOODS DAYTON B-675	PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
8325924		4700100697		108		W H LANTZ #1	PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
8325907		4700101199		108		WILLIS LANTZ #1 B-1513	PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	03/01/83	JA: WV			
8325936		4705901085		107-DV		C-26	HARDEE	35.0	COLUMBIA GAS TRAN
8325920		4705901000		107-DV		C-31	HARDEE	35.0	COLUMBIA GAS TRAN
8325937		4705901006		107-DV		C-32	HARDEE	35.0	COLUMBIA GAS TRAN
8325922		4705901007		107-DV		C-33	HARDEE	35.0	COLUMBIA GAS TRAN
8325921		4705901008		107-DV		C-34	HARDEE	35.0	COLUMBIA GAS TRAN
8325926		4705901004		107-DV		C-35	HARDEE	35.0	COLUMBIA GAS TRAN
-TECHWELL INC				RECEIVED:	03/01/83	JA: WV			
8325923		4708505449		107-DV		W VA INVESTMENT CORP D-3	GRANT DISTRICT	0.0	CABOT CORP
8325925		4708505450		107-DV		W VA INVESTMENT CORP D-6	GRANT DISTRICT	0.0	CABOT CORP

WYOMING OIL & GAS CONSERVATION COMMISSION

-AMOCO PRODUCTION CO				RECEIVED:	03/09/81	JA: WY			
8151042	NG286-80	4903720811		102-4		CHAMPLIN 313 AMOCO "A" WELL #1	STEWART CREEK UNIT	110.0	CITIES SERVICE GA
8151040	NG178-80	4903721456		102-2		CHAMPLIN 452 AMOCO "E" WELL #1	SIBERIA RIDGE	111.0	CITIES SERVICE GA
8151041	NG178-80A	4903721456		102-2		CHAMPLIN 452 AMOCO "E" WELL #1 LEWI	SIBERIA RIDGE	111.0	CITIES SERVICE GA
8151045	NG215-80	4904120055		102-4		RYCKMAN CREEK UNIT #1	RYCKMAN CREEK	256.0	NORTHWEST PIPELIN
8151046	NG216-80	4904120089		102-4		RYCKMAN CREEK UNIT #10	RYCKMAN CREEK	650.0	NORTHWEST PIPELIN
8151043	NG213-80	4904120158		102-2		RYCKMAN CREEK UNIT #18	RYCKMAN CREEK	300.0	NORTHWEST PIPELIN
8151044	NG214-80	4904120346		102-2		RYCKMAN CREEK UNIT #51	RYCKMAN CREEK	200.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	03/26/82	JA: WY			
8258132	NG254-81	4904120362		102-4		PAINTER RESERVOIR UNIT 13-29B	PAINTER RESERVOIR	367.0	INTERNORTH INC
8258133	NG255-81	4904120270		102-4		PAINTER RESERVOIR UNIT 23-31B	PAINTER RESERVOIR	2476.0	INTERNORTH INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CIG EXPLORATION INC				RECEIVED:	03/09/83	JA: WY			
8151038	NG94-80	4901320710		103		LYSITE 1-11	LYSITE 1-11	158.0	COLORADO INTERSTA
-CONSOLIDATED OIL & GAS INC				RECEIVED:	03/09/83	JA: WY			
8151035	NG69-80	4900500080		108		DALY 82	HERMAN	3.0	ARCO OIL & GAS CO
8151036	NG70-80	4900500080		108		DALY 83	HERMAN	3.0	ARCO OIL & GAS CO
-DAVIS OIL COMPANY				RECEIVED:	03/09/83	JA: WY			
8151037	NG147-80	4901920544		102-Z		I C STATE 81	INDIAN CREEK	16.0	PHILLIPS PETROLEU
8151039	NG153-80A	4901920546		102-Z		SCHOONOVER ROAD #2	INDIAN CREEK	15.6	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	03/01/83	JA: WY			
8325905	NG-296-79B	4901300808		108-ER		DAVISON #6-1	POISON CREEK	8.0	
8325904	NG-296-79A	4901300808		108-SA		DAVISON #6-1	POISON CREEK	8.0	
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-CNG PRODUCING COMPANY				RECEIVED:	03/02/83	JA: LA 3			
8325967	G2-2891	1770348125		102-S		452	EAST CAMERON	488.0	CONSOLIDATED GAS
-CONOCO INC				RECEIVED:	03/02/83	JA: LA 3			
8325946	G2-2815	1770840429		102-S		SOUTH MARSH ISLAND 137 A-13D	SOUTH MARSH ISLAND	258.0	MICHIGAN WISCONSI
8325960	G2-2808	1770840241		102-S		SOUTH MARSH ISLAND 137 A-5D	SOUTH MARSH ISLAND	950.0	MICHIGAN WISCONSI
-CONOCO INC				RECEIVED:	03/04/83	JA: LA 3			
8326002	G2-2801	1770840241		102-S		SOUTH MARSH ISLAND 137 A-5	SOUTH MARSH ISLAND	250.0	MICHIGAN WISCONSI
-EXXON CORPORATION				RECEIVED:	03/02/83	JA: LA 3			
8325957	G2-3219	1771540373		102-S		OCS-G 1255 #D-11	SOUTH TIMBALIER	325.0	TRUNKLINE GAS CO
8325947	G2-2921	1771540378		102-S		OCS-G 1255 #D-13	SOUTH TIMBALIER	70.0	TRUNKLINE GAS CO
8325946	G2-2888	1771040961		102-S		OCS-G 2111 #C-6	EUGENE ISLAND	50.0	COLUMBIA GAS TRAN
8325950	G2-3123	1771040993		102-S		OCS-G 2111 #C-9	EUGENE ISLAND	100.0	COLUMBIA GAS TRAN
8325955	G2-3021	1774017988		102-S		OCS-G 2978 #A-10	MISSISSIPPI CANYON	300.0	SOUTHERN NATURAL
8325959	G3-3435	1770840581		102-1		OCS-G 4109 #A-10	SOUTH MARSH ISLAND	4000.0	COLUMBIA GAS TRAN
8325945		1771740130		102-S		OCS-033 #3	GRAND ISLE	50.0	COLUMBIA GAS TRAN
-GULF OIL CORPORATION				RECEIVED:	03/02/83	JA: LA 3			
8325962	G3-3431	1771540458		102-1		OCS-G 3593 #A-5	SOUTH TIMBALIER	1825.0	TEXAS EASTERN TRA
8325954	G3-3439	1770640496		102-1		VERMILION BLK 268 OCS-G 3552 #A-3	VERMILION	3000.0	TEXAS EASTERN TRA
8325961	G3-3438	1770640496		102-1		VERMILION BLK 268 OCS-G 3552 #A-3D	VERMILION	3000.0	TEXAS EASTERN TRA
-MARATHON OIL COMPANY				RECEIVED:	03/02/83	JA: LA 3			
8325949	G-2-3344	1771940239		102-1		WEST DELTA BLOCK 84 WELL #A-5	WEST DELTA	3650.0	TEXAS EASTERN TRA
-MESA PETROLEUM CO				RECEIVED:	03/02/83	JA: LA 3			
8325956	G2-2882	1770640436		102-S		VERMILION BLK 368 WELL #A-6	VERMILION BLOCK	20.0	TRUNKLINE GAS CO
8325953	G2-2883	1770640436		102-S		VERMILION BLOCK 368 WELL #A-6D	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8325951	G2-2916	1770640439		102-S		VERMILION BLOCK 368 WELL #A-8	VERMILION BLOCK	20.0	TRUNKLINE GAS CO
8325958	G2-3164	1770640511		102-1		VERMILION 381 #A-3	VERMILION	1200.0	UNITED GAS PIPE L
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	03/02/83	JA: LA 3			
8325948	G2-3418	1771140594		102-1		SHIP SHOAL 182 #1-S	SHIP SHOAL	125.5	
8325965	G2-3418	1771140606		102-1		SHIP SHOAL 182 #2-S (ALT)	SHIP SHOAL	125.0	
8325963	G2-3425	1771140631		102-1		SHIP SHOAL 182 #3 - A	SHIP SHOAL	70.0	
8325964	G2-2782	1771340061		102-J		SOUTH PELTO 9 #6S	SOUTH PELTO	164.0	TRANSCONTINENTAL
-ODECO OIL & GAS CO				RECEIVED:	03/02/83	JA: LA 3			
8325942	G2-3281	1770940472		107-DP		OCS-G-2893 #5A	EUGENE ISLAND	2000.0	TENNESSEE GAS PIP
-SHELL OFFSHORE INC				RECEIVED:	03/02/83	JA: LA 3			
8325952	G2-3183	1770540483		107-DP		OCS-G 3128 JA-3	VERMILION	2.0	COLUMBIA GAS TRAN
-TENNECO OIL COMPANY				RECEIVED:	03/02/83	JA: LA 3			
8325948	G2-3418	1771140838		102-1		SABINE PASS 11 #B-2	SABINE PASS	3500.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	03/02/83	JA: LA 3			
8325949	G2-2979	1771040664		102-S		OCS-G-2608 E I 313 #B-7	EUGENE ISLAND	346.0	COLUMBIA GAS TRAN
8325945	G2-2975	1771040598		102-S		OCS-G-2608 EUGENE ISLAND 313 #B-3	EUGENE ISLAND	876.0	COLUMBIA GAS TRAN

[FR Doc. 83-8770 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 862]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 30, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publicaton of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd. Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seansonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS — VOLUME 862

ISSUED MARCH 30, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-ANDOVER OIL COMPANY				RECEIVED:	03/02/83	JA: OK			
8326354	19228	3501721953		102-4	103	COURTNEY #56-1		110.0	PHILLIPS PETROLEU
-BLUE QUAIL ENERGY INC				RECEIVED:	03/02/83	JA: OK			
8326322	20279	3515920626		103		MARUSKA #1		0.0	CONOCO INC
8326321	20278	3501722333		103		VASICEK #1	E MUSTANG	0.0	CONOCO INC
-C & K PETROLEUM INC				RECEIVED:	03/02/83	JA: OK			
8326319	20272	3506720417		103		HARRISON 3-30	N E LINDSEY	180.0	WARREN PETROLEUM
-CLARK RESOURCES INC				RECEIVED:	03/02/83	JA: OK			
8326324	20283	3507323679		103		POST 22-1	SOONER TREND	40.0	CONOCO INC
8326326	20300	3505320878		103		YERIAN 9-1		25.0	SUN EXPLORATION &
-CORD PETROLEUM LTD				RECEIVED:	03/02/83	JA: OK			
8326330	23357	3501521435		102-2		JENNINGS #1-20		0.0	PRODUCERS GAS CO
-DAVID E MORGAN				RECEIVED:	03/02/83	JA: OK			
8326343	20026	3504700000		108		LANG #1	SOONER TREND	0.0	CHAMPLIN PETROLEU
-DEMCO OIL & GAS COMPANY				RECEIVED:	03/02/83	JA: OK			
8326340	19663	3507121993		108		KAHLE #1-1		6.2	CITIES SERVICE GA
-EL PASO NATURAL GAS COMPANY				RECEIVED:	03/02/83	JA: OK			
8326318	19171	3512920759		102-4	103	JENCKS #1	BERLIN NW CHEROKEE	700.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	03/02/83	JA: OK			
8326352	18470	3508700000		103		LIBERTY NATIONAL BANK TRUST #2	BLANCHARD	315.0	LONE STAR GAS CO
8326347	14923	3514900000		108-ER		R G JOHNSON #1	BURNS FLAT	21.0	NATURAL GAS PIPEL
-ESTOKIL PRODUCING CORP				RECEIVED:	03/02/83	JA: OK			
8326331	19170	3512300000		102-2	103	CARPENTER #1	NE TECUMSEH	0.0	BETHEL GAS CO
8326329	19169	3512500000		102-2	103	ROSE #1	NE TECUMSEH	146.0	BETHEL GAS CO
-EXXON CORPORATION				RECEIVED:	03/02/83	JA: OK			
8326328	22981	3512920831		107-DP		MOORE-MORRISON #1	WEST REYDON	54.0	EL PASO NATURAL G
-GRAHAM-MICHAELIS CORP				RECEIVED:	03/02/83	JA: OK			
8326344	20051	3513900000		108		LEE #1-15	CAMRICK	10.0	KANSAS-NEBRASKA N
-GREEN OPERATING CO				RECEIVED:	03/02/83	JA: OK			
8326309	20133	3504720398		108		EIFERT 33-1	SOONER TREND	6.0	CITIES SERVICE GA
8326308	20132	3504720501		108		GREGORY 31-1	SOONER TREND	8.0	CITIES SERVICE GA
8326310	20134	3504520271		108		HAMMOND 24-1	SOONER TREND	12.0	CITIES SERVICE GA
8326312	20136	3504720335		108		LIGHT #1	SOONER TREND	15.0	CITIES SERVICE GA
8326311	20135	3504720469		108		OPAL 16-1	SOONER TREND	5.0	CITIES SERVICE GA
8326313	20137	3507320404		108		STOTTS 6-1	SOONER TREND	9.0	CITIES SERVICE GA
8326314	20138	3504720349		108		TUCKER 34-1	SOONER TREND	6.0	CITIES SERVICE GA
-GULF OIL CORPORATION				RECEIVED:	03/02/83	JA: OK			
8326332	20113	3507300000		108		BOECKMAN #1	LINCOLN SE	6.0	CONOCO INC
-HACKATHORN H A				RECEIVED:	03/02/83	JA: OK			
8326346	16796	3503100000		103	108	HACKATHORN #20	EAST LAMTON	0.0	MANN INDUSTRIES I
-JORDAN OIL & GAS COMPANY				RECEIVED:	03/02/83	JA: OK			
8326351	17810	3504520641		103		BERRY #1-3	GAGE SOUTHWEST	73.0	TRANSWESTERN PIPE
8326327	21383	3504520949		103		EHRLICH #1-11	GAGE SOUTH	55.0	TRANSWESTERN PIPE
8326349	17718	3504520969		102-2	103	HOUGH 1-35	GAGE SOUTHWEST	73.0	TRANSWESTERN PIPE
8326350	17719	3504520995		103		STUART #1-4	GAGE SOUTHWEST	73.0	TRANSWESTERN PIPE
-JUMAS OIL PART CORP				RECEIVED:	03/02/83	JA: OK			

JD NO	JA DKT	API NO	D	SECT1	SECT2	WELL NAME	FIELD NAME	PROD	PURCHASER
8326541	19759	3510700000		108		HEFF UNIT #3	LYONS-QUINN	8.8	PHILLIPS PETROLEU
-KEY DRILLING CO				RECEIVED:	03/02/83	JA: OK			
8326559	18665	3511122403		103		LEWIS #4	HECTORVILLE	1.0	PHILLIPS PETROLEU
-MOBIL OIL CORP				RECEIVED:	03/02/83	JA: OK			
8326333	20173	3501900000		108		GRAHAM DEESE UNIT #1-16&CLAMMAN #16	SHO VEL TUM	8.0	LONE STAR GAS CO
-MULTISTATE OIL PROPERTIES NV				RECEIVED:	03/02/83	JA: OK			
8326317	19396	3501922562		105		SOUTH GRAHAM DEESE SAND UNIT #4-13A	SHO-VEL-TUM	10.0	MOBIL OIL CORP
-NATURAL GAS AMADARKO INC				RECEIVED:	03/02/83	JA: OK			
8326354	19387	3508722315		102-E		BLAIR 1-33	SOUTH GRAY	200.0	TRANSWESTERN PIPE
-QUANTUM RESOURCES CORP				RECEIVED:	03/02/83	JA: OK			
8326355	19255	3504700000		105		GUNGOLL #1		8.0	UNION TEXAS PETRO
-RAINBOW OIL & GAS EXPLORATION				RECEIVED:	03/02/83	JA: OK			
8326338	18401	3511700000		103		SCHOOL LAND A #4		8.0	MID-AMERICA GAS L
-RAMBLER OIL CO				RECEIVED:	03/02/83	JA: OK			
8326342	19797	3504921998		103		WILLIAMSON #1-17		8.0	WARREN PETROLEUM
-REYNOLDS EXPLORATION CO				RECEIVED:	03/02/83	JA: OK			
8326344	20095	3507322979		103		LADWIG #1	SOONER TREND	8.0	CITIES SERVICE CO
8326345	20094	3504722688		103		MICHAEL #1		8.0	UNION TEXAS PETRO
-SAMSON RESOURCES COMPANY				RECEIVED:	03/02/83	JA: OK	EAST APACHE	1245.9	EL PASO NATURAL G
8326329	23151	3501521471		107-DP		MINDEMANN #1		938.0	UNITED GAS PIPE L
-SANQUINE LTD				RECEIVED:	03/02/83	JA: OK			
8326335	23165	3510521496		107-DP		BRYAN #1	CEDARDALE NE	9.0	WESTERN FARMERS E
-SNAR-ALAM OIL CO				RECEIVED:	03/02/83	JA: OK			
8326315	23369	3515321418		103		ROBERTS 1-A	E WETUMKA	45.6	PUBLIC SERVICE CO
-STAR RESOURCES INC				RECEIVED:	03/02/83	JA: OK	E WETUMKA	75.0	PUBLIC SERVICE CO
8326323	20281	3506321601		103		MATTHEWS 1-4			
8326334	20229	3506321602		103		PARKS 2-15	WEST SAMS	3.0	ARCO OIL & GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/02/83	JA: OK	S W WAKITA	26.0	CITIES SERVICE GA
8326337	17884	3510300000		108		R A STAPLES #2	SIROUD	8.0	KERR MCGEE CORP
8326336	04334	3507320000		108-ER		S W WAKITA UNIT #9-1			
8326325	20284	3503724111		103		SIROUD PRUE UNIT #25-4	SOONER TREND	2.0	EXXON OIL CO USA
-TENNECO OIL COMPANY				RECEIVED:	03/02/83	JA: OK	SOONER TREND	6.0	EXXON OIL CO USA
8326307	19587	3507355873		108		E G MARSHALL 1-23	SOONER TREND	5.0	CONTINENTAL OIL C
8326303	19585	3507355891		108		EMMA M LUDWIG 1-35			
8326306	19586	3507350401		108		HAROLD NEILL 1-27	WAKITA	188.0	SUN GAS CO
-THE WIL-MC OIL CORP				RECEIVED:	03/02/83	JA: OK			
8326314	20259	3505520671		103		CONNERED #1	COTTAGE GROVE	10.0	HYDROCARBON SERVI
-WOOD & LOCKER INC				RECEIVED:	03/02/83	JA: OK			
8326328	20277	3506321495		103		DROKE #1			

TEXAS RAILROAD COMMISSION

JD NO	JA DKT	API NO	D	SECT1	SECT2	WELL NAME	FIELD NAME	PROD	PURCHASER
-AMERADA HESS CORPORATION				RECEIVED:	03/07/83	JA: TX			
8326458	F-84-859138	4250531339		102-Z	107-TP	LEONARD HAYNES ESTATE #9	LOST MOGOTES ELOBD 67	200.0	NATURAL GAS PIPEL
-AMOCO PRODUCTION CO				RECEIVED:	03/07/83	JA: TX			
8326135	F-84-863808	4248930785		103		GAS UNIT B ZONE B #1	LA SAL VIEJA CB 9680-	912.5	TENNESSEE GAS PIP
8326170	F-84-863511	4220330555		107-RT		KATHLEEN M RESCH #1	BLOCKER (COTTON VALLE	6.1	UNITED GAS PIPELI
-APEX PETROLEUM INC				RECEIVED:	03/07/83	JA: TX			
8326086	F-78-861478	4248332336		102-A		JOHN E WOLF #6-A	WOLF (SERRATT)	24.0	EL PASO HYDROCARB
8326081	F-78-862681	4248333143		102-A		JOHN E WOLF #7	WOLF (SERRATT)	37.0	EL PASO HYDROCARB
-ARCADIA REFINING CO				RECEIVED:	03/07/83	JA: TX			
8326151	F-84-863737	4248130951		102-A		A F COOPER #10346	CYRIL (TRAVIS PEAK-A)	0.0	HENDERSON CLAY PR
-ARCO OIL AND GAS COMPANY				RECEIVED:	03/07/83	JA: TX			
8326065	F-78-078705	4219500000		108-ER		LAURENCE J FITZSIMON #1	TWIN (TONKOWA)	25.6	NATURAL GAS PIPEL
-BEL OPERATING CO				RECEIVED:	03/07/83	JA: TX			
8326201	F-78-864147	4213300000		102-A		MIDKIFF #10 (18556)	MIDKIFF (ADAMS BRANCH	0.0	ODESSA NATURAL CO
-BEACH EXPLORATION INC				RECEIVED:	03/07/83	JA: TX			
8326162	F-80-864922	4217331200		103		HOUSTON "A" #1	GORDON STREET (WOLFCA	66.8	PHILLIPS PETROLEU
-BILL J GRAHAM				RECEIVED:	03/07/83	JA: TX			
8326161	F-80-863987	4247500000		103		JILL #1	SHIPLEY (YATES)	27.3	WARREN PETROLEUM
-C. J. WOFFORD				RECEIVED:	03/07/83	JA: TX			
8326131	F-78-863556	4214330643		103		H G HIGGINBOTTOM #1 LEASE #17192	ERATH COUNTY REGULAR	6.8	CORONADO TRANSMIS
8326112	F-78-863557	4214330652		103		PARKER-HIGGINBOTTOM #1-LEASE #17044	ERATH COUNTY REGULAR	6.8	CORONADO TRANSMIS
-CARLSON PETROLEUM CO				RECEIVED:	03/07/83	JA: TX			
8326302	F-84-864428	4248131178		102-A		CURTIS ALLEN #1-C	MINDEN W (RODESSA)	126.0	TEXAS UTILITIES F
-CARTER EXPLORATION CO				RECEIVED:	03/07/83	JA: TX			
8326866	F-82-815651	4202500000		102-A		RUTH NARTZENDORF #1	LINKE SW (3RD HET) FI	200.0	VALERO TRANSMISSI
8326868	F-84-844151	4229400000		103		SCHAEFFER RANCH #1	ROMERO TRAP (PETTUS)	0.0	VALERO TRANSMISSI
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	03/07/83	JA: TX			
8326078	F-84-848648	4235531713		102-A		O P WARDNER #154	STRATTON (G-9 RES 7)	481.5	TENNESSEE GAS PIP
8326101	F-84-862986	4249700000		105		H ARDINGER #2	BOONESVILLE (BEND CON	247.0	SOUTHWESTERN GAS
-CHEVRON U S A INC				RECEIVED:	03/07/83	JA: TX			
8326139	F-84-863857	4241532262		103		SACROC UNIT #124-22	KELLY-SNYDER	61.0	EL PASO NATURAL G
8326141	F-84-863859	4241532287		103		SACROC UNIT #27-16	KELLY-SNYDER	85.0	EL PASO NATURAL G
8326140	F-84-863858	4241532278		103		SACROC UNIT #32-28	KELLY - SNYDER	143.0	EL PASO NATURAL G
8326138	F-84-863856	4241532269		103		SACROC UNIT #33-13	KELLY-SNYDER	198.0	EL PASO NATURAL G
8326137	F-84-863855	4241532298		103		SACROC UNIT #33-14	KELLY-SNYDER	165.0	EL PASO NATURAL G
8326136	F-84-863854	4241532280		103		SACROC UNIT #74-5	KELLY-SNYDER	90.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:	03/07/83	JA: TX			
8326215	F-80-864182	4238531310		103		LAYDEN A #4			
8326216	F-80-864183	4238531311		103		LAYDEN-A #3	COLLIE (DELAWARE)	29.0	INTERTEX GAS CO
8326209	F-80-864167	4215534051		105		RHODES COWDEN UNIT 8448	COLLIE (DELAWARE)	69.0	INTRATEX GAS CO
8326210	F-80-864168	4215534050		105		RHODES COWDEN UNIT 8449	COWDEN NORTH	8.0	AMOCO PRODUCTION
8326211	F-80-864169	4215534026		105		RHODES COWDEN UNIT 8450	COWDEN NORTH	5.0	AMOCO PRODUCTION
8326231	F-84-864218	4234730680		102-Z	107-TP	STEWART C #1	COWDEN NORTH	6.0	AMOCO PRODUCTION
-CLOVER ENERGY CORP				RECEIVED:	03/07/83	JA: TX	APPLEBY N (COTTON VAL	71.0	UNITED GAS PIPE L
8326009	F-82-861868	4205731291		102-A		W W WILSON III #1			
-CMC ENERGY INC				RECEIVED:	03/07/83	JA: TX	SHERIFF EAST (8800-A)	8.0	UNITED TEXAS TRAN
8326117	F-84-863426	4213100000		106		SOLIZ A WELL NO 5 098361			
-COASTAL OIL & GAS CORP				RECEIVED:	03/07/83	JA: TX	BENAVIDES (WALSTEAD S	5.0	ESPERANZA TRANSMI
8326273	F-84-864151	4242700000		108		MIMMO U #1			
-COMANCHE ENERGY AGENCY				RECEIVED:	03/07/83	JA: TX	YZAGUIRRE (8500)	18.0	VALERO TRANSMISSI
8326121	F-78-863557	4205933948		102-A		LINDA JONES #1			
-CONOCO INC				RECEIVED:	03/07/83	JA: TX	WILDCAT	429.0	LONE STAR GAS CO
8326022	F-84-861819	4238931385		103		BELL "44" #10 ID 027643	JESS BURNER/DELAWARE	876.0	EL PASO NATURAL G
8326254	F-84-864192	4207700000		108		CONOCO DEAN UNIT #48 (60106)	SLAUGHTER	1.2	AMOCO PRODUCTION
8326650	F-84-865911	4231531732		105		EAST ACKERLY DEAN UNIT #70 ID 60687	ACKERLY (DEAN SAND)	8.8	TEXACO
8326255	F-84-864193	4211500000		108		GONZELL HOOD #1 (60914)	ACKERLY NORTH/CISCO	1.2	GETTY OIL CO
8326258	F-84-864195	4231731234		108		GRISHAM & GREEMAN #19 (22261)	SPRABERRY/TREND AREA	6.9	ADOBE OIL CO
8326257	F-84-864194	4243500000		108		QUEST/CANYON SAND/UNIT #34 (108553)	QUEST/CANYON SAND	0.2	CITIES SERVICE CO
8326294	F-81-864008	4232331166		103		H J CHITTIM #1667	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326291	F-81-864005	4232331360		103		H J CHITTIM #1663	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326292	F-81-864006	4232331369		103		H J CHITTIM #947	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326296	F-81-864011	4232331398		103		H J CHITTIM #948	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8326388	F-81-864407	4232331391		103		M J CHITTIM #549	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326299	F-81-864406	4232331392		103		M J CHITTIM #550	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326298	F-81-864405	4232331502		103		M J CHITTIM #551	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326397	F-81-864404	4232331504		103		M J CHITTIM #612	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326295	F-81-864401	4232331503		103		M J CHITTIM #613	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326286	F-81-864392	4232331393		103		M J CHITTIM #6551	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326287	F-81-864393	4232331394		103		M J CHITTIM #6552	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326288	F-81-864394	4232331395		103		M J CHITTIM #6553	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326289	F-81-864395	4232331396		103		M J CHITTIM #6554	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326290	F-81-864396	4232331397		103		M J CHITTIM #6555	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326291	F-81-864408	4232331908		103		M J CHITTIM #6556	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326293	F-81-864399	4232331505		103		M J CHITTIM NO 614	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8326259	F-78-864256	4215130365		108		ROUND TOP/CANYON SAND/UNIT #21 1906	ROUND TOP	9.4	LONE STAR GAS CO
8326256	F-80-864253	4233500008		108		TXL 44-43 87 (16192)	LAWSON/SAN ANDRES	3.5	PHILLIPS PETROLEU
-CROWN CENTRAL PETROLEUM CORP		RECEIVED: 03/07/83 JA: TX							
8326059	F-85-858031	4234900008		103		CHAPMAN #9	POWELL	160.0	LONE STAR GAS CO
-D L DORLAND INC		RECEIVED: 03/07/83 JA: TX							
8326158	F-84-863958	4222732855		103		M W D'DANIEL EST "A"	DORLAND (FUSSELMAN)	10.5	GETTY OIL CO
-DIAMOND SHAMROCK CORPORATION		RECEIVED: 03/07/83 JA: TX							
8326064	F-10-826777	4229500000		108-ER		BASIL DUKE 1-727	BRADFORD NW	4.0	
8326046	F-10-859474	4235731196		102-4	103	DREW ELLIS #2-851	DREW ELLIS	120.9	NATURAL GAS PIPEL
-E C WHITE OIL CO		RECEIVED: 03/07/83 JA: TX							
8326017	F-84-861325	4207900008		103		J D LANEY #11	LEVELLAND	1.0	CITIES SERVICE GA
-EL PASO NATURAL GAS COMPANY		RECEIVED: 03/07/83 JA: TX							
8326029	F-76-865468	4243519217		108		MECKEL #5	SONORA (CANYON UPPER)	26.0	EL PASO NATURAL G
-EXPANDO PRODUCTION CO		RECEIVED: 03/07/83 JA: TX							
8326098	F-82-862752	4239100000		108		DAVENPORT #1	REFUGIO HEARD 6900	8.8	UNITED GAS PIPELI
-EXXON CORPORATION		RECEIVED: 03/07/83 JA: TX							
8326285	F-85-864389	4220131483		103		E F MILO #16	TOMBALL (SCHULTZ SE)	18.3	NATURAL GAS PIPEL
8326015	F-83-861193	4229131416		103		EXXON-WEST FEE 'C' A/C 1 864	CLEAR LAKE W (MARGINU	720.5	ARMCO STEEL CORP
8326169	F-88-864948	4257134884		103		FORT STOCKTON UNIT #513	FORT STOCKTON (YATES	20.8	HUECES CO
8326178	F-88-864949	4257134858		103		FORT STOCKTON UNIT #824	FORT STOCKTON (YATES	24.0	HUECES CO
8326027	F-88-868038	4247532691		103		G Q AVARY JR B #2	RHODA WALKER (CANYON	12.0	INTRATEX GAS CO
8326045	F-86-857448	4240131458		102-4		H A PIERCY OIL UNIT 1 #1	OVERTON N E (PETTIT)	57.0	ARMCO STEEL CORP
8326165	F-88-864845	4200333382		103		J S MEANS A/C 2 #2323	MEANS (QUEEN SAND)	15.0	
8326194	F-84-86413	4227331486		103		K R BORREGOS 556 (102750)	BORREGOS (N-5)	62.0	ARMCO STEEL CORP
8326191	F-84-864127	4224931291		102-4		K R BORREGOS 561 (065443)	BORREGOS (ZONE N-4 W)	178.0	ARMCO STEEL CORP
8326192	F-84-864128	4227331709		103		K R BORREGOS 38A-D (102751)	BORREGOS (P-9 UPPER)	402.0	ARMCO STEEL CORP
8326193	F-84-864129	4227331709		103		K R BORREGOS 56A-F (102755)	BORREGOS (ZONE N-4 S	291.0	ARMCO STEEL CORP
8326384	F-84-864435	4227350580		102-4		K R EAST LAURELES B-11-D (103028)	BIRA (N-54)	685.0	ARMCO STEEL CORP
8326171	F-84-864866	4227350590		102-4		K R VISNAGA 13-D (ID 10135)	YEARY (N-92)	11.0	ARMCO STEEL CORP
8326035	F-83-861192	4215731359		103		KATY GAS FIELD UNIT 2'W-67	KATY 5 (FIRST WILCOX)	912.5	ARMCO STEEL CORP
8326164	F-7C-864038	4243131126		103		LOU E JOHNSON ESTATE A/C 1 #55	JAMESON (STRAWN)	14.8	KOCH HYDROCARBON
8326028	F-7C-861594	4243131013		103		LOU E JOHNSON ESTATE A/C 2 #32	JAMESON (STRAWN)	18.8	
8326163	F-7C-862838	4243131168		103		LOU E JOHNSON ESTATE A/C 2 #33	JAMESON (STRAWN)	31.8	KOCH HYDROCARBON
8326987	F-88-867712	4200333341		103		MEANS/SAN ANDRES/UNIT #1762	MEANS	15.0	PHILLIPS PETROLEU
8326995	F-88-862940	4200333339		103		MEANS/SAN ANDRES/UNIT #3064	MEANS	15.0	PHILLIPS PETROLEU
8326168	F-88-864847	4200333338		103		MEANS/SAN ANDRES/UNIT #3356	MEANS	15.0	PHILLIPS PETROLEU
8326986	F-88-862711	4200333337		103		MEANS/SAN ANDRES/UNIT #7470	MEANS	15.0	PHILLIPS PETROLEU
8326113	F-84-863359	4226130735		102-4		MRS S E EAST 139 (102714)	RITA NE (I-45)	1168.0	ARMCO STEEL CORP
8326172	F-84-864867	4226130742		102-4		MRS S E EAST 140 (ID 102946)	RITA NE (K-12)	289.0	ARMCO STEEL CORP
8326860	F-88-858892	4200333258		103		R M MEANS #1851	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8326166	F-88-864844	4200333389		103		R M MEANS #1958	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8326167	F-88-864846	4200333388		103		R M MEANS #1959	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8326305	F-84-864432	4226130708		102-4		RJE JR TR STILLMAN 55 (103129)	TORDILLA (J-66)	310.0	ARMCO STEEL CORP
8326173	F-84-864868	4206731894		103		VFGU #1 9-6-S (103058)	VIBORAS (MASSIVE FIRS	237.0	ARMCO STEEL CORP
8326010	F-86-862491	4236531581		103	107-TF	W R BANKS (CFEC UNIT 558) #3	CARTHAGE (COTTON VALL	420.0	TEJAS GAS CORP
8326208	F-86-864165	4242330563		103	107-TF	WILLIAM A COLE #1	OVERTON (HAYNESVILLE)	245.0	ARMCO STEEL CORP
8326088	F-7C-862714	4238332619		103		ZULETA E HUGHES #5	SPRAGBERRY (TREND AREA	8.0	EL PASO NATURAL G
-FAIR ENERGY		RECEIVED: 03/07/83 JA: TX							
8326251	F-81-864264	4216331648		102-2		BOOTH "D" #2	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326244	F-81-864255	4216300000		102-2		F I BOOTH "C" #1	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326245	F-81-864256	4216300000		102-2		F I BOOTH "C" #2	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326249	F-81-864241	4216300000		102-2		F I BOOTH "C" #3	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326250	F-81-864242	4216300000		102-2		F I BOOTH "C" #4	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326252	F-81-864245	4216300000		102-2		FAIRWAY #1	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326253	F-81-864246	4216300000		102-2		FAIRWAY #3	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326247	F-81-864239	4216300000		102-2		KEYSTONE RANCH #4	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326246	F-81-864258	4216300000		102-2		KEYSTONE RANCH #5	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
8326248	F-81-864240	4216300000		102-2		KEYSTONE RANCH 3A	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
-FRED M NEWMAN INC		RECEIVED: 03/07/83 JA: TX							
8326013	F-88-862594	4237100000		103		UNIVERSITY 3 B #1 826595	CARDINAL (QUEEN W)	56.0	INTER NORTH INC
-FURRY PRODUCING CO		RECEIVED: 03/07/83 JA: TX							
8326133	F-78-863757	4204900000		103		CURTIS LEWIS	BROWN COUNTY REGULAR	2.0	ODESSA NATURAL CO
8326134	F-78-863777	4204900000		108		CURTIS LEWIS #3	BROWN COUNTY REGULAR	6.0	ODESSA NATURAL CO
-GAYLYN EXPLORATION INC		RECEIVED: 03/07/83 JA: TX							
8326105	F-09-863896	4225734034		108		BRYSON #1 (21944)	BRYSON SW (STRAWN 344	8.0	SOUTHWESTERN GAS
-GENERAL PRODUCTION CO INC		RECEIVED: 03/07/83 JA: TX							
8326008	F-78-862162	4203132366		103		JOHN PLASEK A-2	WILLARD (NAVARRO)	9.0	FERGUSON CROSSING
-GETTY OIL COMPANY		RECEIVED: 03/07/83 JA: TX							
8326189	F-88-863233	4218332955		103		M MCELROY U1 #3951-F RRC 020377	MCELROY	1.0	PHILLIPS PETROLEU
8326026	F-82-859946	4200700000		102-4		TGT #5 #2	PANTHER REEF NW (FRIO	250.0	
-GHK ENERGY CORP		RECEIVED: 03/07/83 JA: TX							
8326852	F-84-855939	4250331498		102-4	107-TF	LA PERLA #41	LA PERLA RANCH (LOBO	0.0	VALERO TRANSMISSI
-GIBBS COX & GIBBS INC		RECEIVED: 03/07/83 JA: TX							
8326115	F-78-863378	4208332699		108		E S HAYNES #2-A (997825)	SANTA ANNA (MARBLE FA	1.0	EL PASO HYDROCARB
8326116	F-78-863408	4208332046		108		E S HAYNES "A" #1 (9898933)	SANTA ANNA (MARBLE FA	1.0	EL PASO HYDROCARB
-GRAHAM ENERGY LTD		RECEIVED: 03/07/83 JA: TX							
8326039	F-88-858576	4235300000		103		FOSTER S PRICE #2	JAMESON NORTH (STRAW)	561.6	SUN OIL CO
-GULF OIL CORPORATION		RECEIVED: 03/07/83 JA: TX							
8326185	F-85-864119	4213501619		108		W E CONNELL "A" #5	JORDAN (ELLENBURGER)	4.1	PHILLIPS PETROLEU
-GULFSTREAM PETROLEUM CORP		RECEIVED: 03/07/83 JA: TX							
8326011	F-82-862499	4205731187		102-4		STATE TRACT 121 WELL #1	SW PANTHER REEF (FRIO	292.0	HOUSTON PIPELINE
-H E BRYAN		RECEIVED: 03/07/83 JA: TX							
8326073	F-10-852443	4220500000		103		BIVINS #1-A	WEST PANHANDLE	310.0	PHILLIPS PETROLEU
8326074	F-10-852445	4220500000		103		REED #1-A	WEST PANHANDLE	815.0	PHILLIPS PETROLEU
-HARRIS EXPLORATION CO		RECEIVED: 03/07/83 JA: TX							
8326851	F-83-855756	4214951287		102-4		C W WEBB #2	GIDDINGS (AUSTIN CHAL	310.2	PHILLIPS PETROLEU
-HENDERSON & ERICKSON		RECEIVED: 03/07/83 JA: TX							
8326097	F-76-862950	4236332924		103		JAGGERS "A" #3	PALO PINTO COUNTY REG	23.8	LONE STAR GAS CO
8326096	F-76-862949	4236332925		103		JAGGERS "A" #4	PALO PINTO COUNTY REG	15.5	LONE STAR GAS CO
-HEWIT & DOUGHERTY		RECEIVED: 03/07/83 JA: TX							
8326234	F-82-864221	4239100000		103		M F LAMBERT #1241	TOM O'CONNOR (5900' S	180.0	UNITED TEXAS TRAN
8326233	F-82-864220	4239100000		103		M F LAMBERT #1240	TOM O'CONNOR (4150' S	200.0	UNITED TEXAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HEXAGON OIL & GAS INC				RECEIVED>	03/07/83	JA> TX			
8326265	F-78-064298	4236332966		102-4		BOARMAN #1-T	MINERAL WELLS E (CONG	18.0	SOUTHWESTERN GAS
8326163	F-78-064025	4236332672		102-2		MATNEY #1	MORGAN MILL (MARBLE F	25.0	INTRASTATE GATHER
8326266	F-78-064299	4236732222		102-4		THOMAS #1	MOBY DICK (CONGL)	28.0	SOUTHWESTERN GAS
-HNG OIL COMPANY				RECEIVED>	03/07/83	JA> TX			
8326200	F-7C-062964	4245532844		103	107-TF	SHIRLEY "1548" #3	SAWYER (CANYON)	40.0	INTRATEX GAS CO
-HOCKEL DRILLING INC				RECEIVED>	03/07/83	JA> TX			
8326036	F-82-058438	4228508000		102-4		GEORGIA MAE GROSSMANN GU #1	JANSKY 10,350' FIELD	0.0	EXXON CORP
-HUGHES & HUGHES				RECEIVED>	03/07/83	JA> TX			
8326110	F-84-063252	4240931674		102-4		M A FROST #1	TAFT SOUTH (8500) (PR	31.0	HOUSTON PIPE LINE
-HUNT ENERGY CORPORATION ET AL				RECEIVED>	03/07/83	JA> TX			
8326213	F-10-064178	4248330808		102-2		BRITT-CALDWELL #1	BRITT RANCH	356.0	ARKANSAS-LOUISIAN
-ICE BROTHERS				RECEIVED>	03/07/83	JA> TX			
8326102	F-7C-062988	4241330757		103	107-TF	GUNN #1	ELDORADO (CANYON)	143.4	INTER NORTH INC
-INTERNORTH INC				RECEIVED>	03/07/83	JA> TX			
8326041	F-10-058917	4221100000		103		LOCKHART "C" 58 #1		10.5	INTERNORTH INC
-J B HERRMANN				RECEIVED>	03/07/83	JA> TX			
8326235	F-10-064225	4223331478		103		LUCAS #11 04565	PANHANDLE -	20.0	PHILLIPS PETROLEU
8326236	F-10-064226	4223331529		103		LUCAS #12	PANHANDLE -	0.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED>	03/07/83	JA> TX			
8326123	F-10-063516	4223300000		108		JOHNSON "E" #3	PANHANDLE	1.2	COLORADO INTERSTA
8326124	F-10-063567	4223300000		108		JOHNSON "E" #4	PANHANDLE	1.2	COLORADO INTERSTA
8326125	F-10-063568	4223300000		108		JOHNSON "E" #5	PANHANDLE	1.2	COLORADO INTERSTA
8326126	F-10-063569	4223300000		108		JOHNSON "E" #6	PANHANDLE	1.2	COLORADO INTERSTA
-JAMES E HOLDEN				RECEIVED>	03/07/83	JA> TX			
8326021	F-84-061607	4235532044		102-4		L L BAILEY	HOLDEN (FRIO 5990)	730.0	VICTORIA GAS CORP
-JMI INC				RECEIVED>	03/07/83	JA> TX			
8326069	F-83-047296	4215731232		102-4		HARRISON GAS UNIT #1	KATY S (FIRST WILCOX)	500.0	INTRASTATE GATHER
-JOHN L COX				RECEIVED>	03/07/83	JA> TX			
8326078	F-7C-053927	4246131985		103		SKAGGS "B" #1 REC 8NA	SPRABERRY (TREND AREA	10.0	PHILLIPS PETROLEU
-KY-TEX PETROLEUM CO				RECEIVED>	03/07/83	JA> TX			
8326093	F-78-062987	4208333231		102-4		R WOLTERS #1	HEMPHILL (JENNINGS)	639.9	EL PASO HYDROCARB
-L K SPRADLING				RECEIVED>	03/07/83	JA> TX			
8326214	F-10-064179	4223300000		103		JOHNSON A #2 04992	PANHANDLE	26.0	PHILLIPS PETROLEU
-L TEXAS PETROLEUM INC				RECEIVED>	03/07/83	JA> TX			
8326055	F-84-057168	4227335557		103		F B MEEKS #2	DILLARD SE (ELLENBURG	0.0	CITIES SERVICE GA
-LEONARD BROTHERS OPERATING CO				RECEIVED>	03/07/83	JA> TX			
8326268	F-78-064259	4214300000		108		M D STEWART UNIT "A" #1 (076113)	X-RAY (MARBLE FALLS)	3.0	LONE STAR GAS CO
-LYRIC ENERGY INC				RECEIVED>	03/07/83	JA> TX			
8326232	F-10-064219	4217931893		103		SCHAFFER #3	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
-M S KLOTZMAN EXPLORATION				RECEIVED>	03/07/83	JA> TX			
8326025	F-82-059964	4246931904		102-4		C M SCHMIDT #2	PROPOSED COLETO CREEK	0.0	DELHI GAS PIPELIN
-MARSHALL EXPLORATION INC				RECEIVED>	03/07/83	JA> TX			
8326077	F-84-055721	4236530957		103	107-TF	PELLHAM #1	CARTHAGE (COTTON VALL	40.0	WESTERN GAS CORP
8326114	F-84-063371	4200131350		102-4	105	TERRELL #1	PURT W (RODESSA 10,20	100.0	ESPERANZA PIPELIN
-MCCORMICK OPERATING CO				RECEIVED>	03/07/83	JA> TX			
8326056	F-85-057817	4229336529		102-3	107-TF	C B TILLMAN #1	KOSSE SE (COTTON VALL	150.0	TEXAS UTILITIES F
-MCIVER INC				RECEIVED>	03/07/83	JA> TX			
8326828	F-78-060059	4208333123		102-4		KEETIE RAYNES #1-C	TRICKHAM LOWER CROSSC	25.0	LONE STAR GAS CO
-MERCURY EXPLORATION CO				RECEIVED>	03/07/83	JA> TX			
8326809	F-78-062189	4244131177		102-4		FRANK ANTILLEY #1	JACKIE GRIMM (GARDNER	20.0	VALERO TRANSMISSI
-MIDWAY OIL CORP				RECEIVED>	03/07/83	JA> TX			
8326844	F-83-059258	4205131566		102-4		RATJEN #1	CALDWELL	100.0	CLAJON GAS CO
-MILES PRODUCTION CO				RECEIVED>	03/07/83	JA> TX			
8326087	F-78-062065	4208331934		102-2		MILLER RANCH GHC "B" #1 PENDING	COLEMAN COUNTY REGULA	70.0	STRIGINE GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED>	03/07/83	JA> TX			
8326072	F-84-052195	4249700000		108		D L BOULWARE #1 029187	BOONSVILLE (BEND CONG	6.6	SOUTHWESTERN GAS
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED>	03/07/83	JA> TX			
8326283	F-88-064152	4200333230		103		SHAFTER LAKE SAN ANDRES UNIT 0297	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8326284	F-88-064153	4200333237		103		SHAFTER LAKE SAN ANDRES UNIT 0298	SHAFTER LAKE (SAN AND	13.9	PHILLIPS PETROLEU
8326285	F-88-064154	4200333234		103		SHAFTER LAKE SAN ANDRES UNIT 0301	SHAFTER LAKE (SAN AND	8.8	PHILLIPS PETROLEU
8326286	F-88-064155	4200333239		103		SHAFTER LAKE SAN ANDRES UNIT 0306	SHAFTER LAKE (SAN AND	91.2	PHILLIPS PETROLEU
8326287	F-88-064156	4200333222		103		SHAFTER LAKE SAN ANDRES UNIT 0314	SHAFTER LAKE (SAN AND	12.0	PHILLIPS PETROLEU
8326292	F-84-064158	4250132308		102-4		SHOOK ESTATE #3	BRAHANEY NORTHWEST (D	1.5	
-MORROW RESOURCES INC				RECEIVED>	03/07/83	JA> TX			
8326088	F-7C-062568	4245131072		102-2	103	BROWN #7	K W B (STRAWN)	0.0	LONE STAR GAS CO
8326014	F-7C-062567	4245131077		102-2	103	BROWN "B" #5	K W B (STRAWN)	0.0	LONE STAR GAS CO
8326098	F-7C-062955	4245131081		102-2	103	BROWN "D" #2	K W B (STRAWN)	0.0	LONE STAR GAS CO
8326084	F-7C-062675	4245131069		102-2	103	MATHEWS "B" #5	K W B (STRAWN)	0.0	LONE STAR GAS CO
-MUELLER ENGINEERING CORP				RECEIVED>	03/07/83	JA> TX			
8326937	F-82-058478	4229700000		108-ER		ISABELLE FERRELL C-1	RAMIRENA (YEGUA Z)	15.4	VALLEY GAS TRANSM
-PANHANDLE ENERGY CORP				RECEIVED>	03/07/83	JA> TX			
8326143	F-10-063879	4217931264		103		CAROL #1 (ID #102937)	PANHANDLE WEST	100.0	CABOT PIPELINE CO
-PARKER & PARSLEY INC				RECEIVED>	03/07/83	JA> TX			
8326129	F-88-063662	4231732593		103		GLASS "A" #1	SPRABERRY (TREND AREA	0.0	ADOBE OIL & GAS C
-PENNZOIL PRODUCING COMPANY				RECEIVED>	03/07/83	JA> TX			
8326284	F-84-064388	4235500000		108		B B SIMMONDS #14	AGUA DULCE (WRIGHT "B	7.0	UNITED GAS PIPE L
8326146	F-84-063910	4235500000		108		B B SIMMONDS #22	AGUA DULCE (5,200')	19.0	UNITED GAS PIPE L
8326283	F-84-064387	4235500000		108		CLARA DRISCOLL #4-12-L	AGUA DULCE (7,550' ST	9.0	UNITED GAS PIPE L
8326147	F-84-063911	4221500000		108		SAVAGE "A" UNIT #4-Z	HIDALGO (BELL) AND (N	7.0	VAL GAS CO
8326145	F-84-063909	4221500000		108		SAVAGE "B" UNIT #8-E-L	HIDALGO (CORD)	22.0	VAL GAS CO
-PETRO PUMP & SUPPLY INC				RECEIVED>	03/07/83	JA> TX			
8326089	F-78-062738	4205933935		102-4		E H TATOM #1	MIS RAIZES (DUPPER)	77.0	SOUTHWESTERN GAS
-PETROVEST INC				RECEIVED>	03/07/83	JA> TX			
8326071	F-82-051804	4246931858		105		WEISSER #1A 098459	ELOISE WEST (WEISSER	108.0	TENNESSEE GAS PIP
-PHILLIPS PETROLEUM COMPANY				RECEIVED>	03/07/83	JA> TX			
8326032	F-10-061946	4215731303		103		BENNETTS #3	FARNSWORTH-CONNER (DE	0.0	PANHANDLE EASTERN
8326173	F-10-064095	4217900000		108		FOOX J #2	PANHANDLE GRAY	0.0	
8326018	F-10-061475	4217900000		108		HUSTED #5	PANHANDLE GRAY	0.0	
8326174	F-10-064094	4217900000		108		JOHNSON A #2	PANHANDLE GRAY	0.0	
8326184	F-10-064184	4217900000		108		OSBORNE #1	PANHANDLE GRAY	0.0	
8326177	F-10-064097	4217900000		108		OSBORNE #11	PANHANDLE GRAY	0.0	
8326176	F-10-064096	4217900000		108		OSBORNE #12	PANHANDLE GRAY	0.0	
8326183	F-10-064183	4217900000		108		OSBORNE #3	PANHANDLE GRAY	0.0	
8326182	F-10-064102	4217900000		108		OSBORNE #4	PANHANDLE GRAY	0.0	
8326181	F-10-064101	4217900000		108		OSBORNE #6	PANHANDLE GRAY	0.0	
8326180	F-10-064100	4217900000		108		OSBORNE #7	PANHANDLE GRAY	0.0	
8326179	F-10-064099	4217900000		108		OSBORNE #8	PANHANDLE GRAY	0.0	
8326178	F-10-064098	4217900000		108		OSBORNE #9	PANHANDLE GRAY	0.0	
8326848	F-7C-059829	4245332655		103	107-TF	WARD C #18	SONORA (CANYON UPPER)	481.0	INTRATEX GAS CO
8326849	F-7C-059831	4245332631		103	107-TF	WARD C #9	SONORA (CANYON UPPER)	422.0	INTRATEX GAS CO
8326108	F-10-063172	4225300000		108		YAKE G #6	PANHANDLE WEST	0.0	EL PASO NATURAL G
-PWYLKO ENERGY CORP				RECEIVED>	03/07/83	JA> TX			
8326212	F-82-064174	4225931889		102-4		VELMA ROBINSON #1 102318	COLLIER NORTH (2450)	75.0	HOUSTON PIPE LINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-PICKARD & KIRKPATRICK OIL CO				RECEIVED:	03/07/83	JA: TX
8326128	F-02-063592	4217531655		102-4		SPANGLE #1
-PITCOCK INC				RECEIVED:	03/07/83	JA: TX
8326118	F-7B-063678	4205932466		102-4		WINDHAM #1 072408
-PLATEAU EXPLORATION & DEVELOPMENT I				RECEIVED:	03/07/83	JA: TX
8326026	F-7C-060815	4241300000		103	107-TF	PLATEAU-ROSE #1
-POLK & PATTON INC				RECEIVED:	03/07/83	JA: TX
8326031	F-03-060544	4205132328		102-2		MAXWELL UNIT #2
-QUEST PETROLEUM INC				RECEIVED:	03/07/83	JA: TX
8326076	F-7B-053551	4236300000		103		MATHIS #1-T
-R & W ENERGY CORP				RECEIVED:	03/07/83	JA: TX
8326157	F-7B-063943	4213336316		102-4		BLACKWELL #1
-R G MCDANIEL				RECEIVED:	03/07/83	JA: TX
8326159	F-08-063978	4237160000		103		AIKINS #1-A 027802
-RAY HERRING				RECEIVED:	03/07/83	JA: TX
8326047	F-7B-059655	4250336198		103		SCARLETT A-2
-RED TOP OIL INC				RECEIVED:	03/07/83	JA: TX
8326057	F-7B-057874	4236332775		102-4		BOSS #3-A (193339)
-REYNOLDS DRLG CO & ENE EXPL CO				RECEIVED:	03/07/83	JA: TX
8326104	F-06-063026	4240131387		103	107-TF	ARNOLD EST #1
-ROBERT KLABZUBA				RECEIVED:	03/07/83	JA: TX
8326199	F-7C-064134	4239931836		102-2		GRAHAM #1 808844
8326198	F-7C-064135	4239931835		102-2		RAMSBARGER #2 808710
8326197	F-7C-064134	4209530582		102-2		RAMSBARGER #3 808710
8326196	F-7C-064133	4209530591		102-2		SCHWERTNER #1 809531
8326195	F-7C-064132	4239931834		102-2		WILBANKS #1 808962
8326200	F-7C-064137	4239932369		102-2		WILBANKS #2 808962
-ROBERT P LAMVERTS				RECEIVED:	03/07/83	JA: TX
8326033	F-03-060971	4204100000		102-2		RANSOM #1
-SAGE ENERGY CO				RECEIVED:	03/07/83	JA: TX
8326091	F-03-062778	4220700000		103		MALKE #1 RRC #
8326268	F-7C-064308	4210534271		103		SUPERIOR STATE "14" #1 RRC 809923
8326267	F-7C-064317	4210534272		103		SUPERIOR STATE "7" #1 RRC 809917
8326269	F-7C-064309	4238300000		103		UNIVERSITY 18-G #5 RRC 809558
-SAHARA OIL & GAS INC				RECEIVED:	03/07/83	JA: TX
8326042	F-01-058936	4202100000		102-4		FRED HILBIG (808852)
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	03/07/83	JA: TX
8326034	F-02-061892	4229733285		102-4		BODDEN-FROST GAS UNIT #1 WELL #3
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	03/07/83	JA: TX
8326156	F-01-057916	4228700000		103		KENNETH #1
-SHANNON OIL & GAS INC				RECEIVED:	03/07/83	JA: TX
8326053	F-03-056262	4232100000		102-4		KOONTZE & COUCH #1-C
-SHELL OIL CO				RECEIVED:	03/07/83	JA: TX
8326237	F-8A-064186	4250132295		103		DENVER UNIT #2938
8326812	F-04-062549	4221531229		102-4		HAMMAN RANCH #12
-SMILE ENERGY INC				RECEIVED:	03/07/83	JA: TX
8326142	F-7B-063841	4213332925		102-4		ROBERTSON A-1 103817
-SO-TEX PETROLEUM, INC.				RECEIVED:	03/07/83	JA: TX
8326130	F-7B-063705	4241332271		102-4		SOUTH CORNETT #5
SOUTHERN CRUDE OIL RESOURCES INC				RECEIVED:	03/07/83	JA: TX
***6127	F-7B-063583	4236732316		102-4		BEN MAY #1
/THERN ROYALTY INC				RECEIVED:	03/07/83	JA: TX
8326094	F-04-062918	4240900000		102-4		TROST #2
-STALEY OPERATING CO				RECEIVED:	03/07/83	JA: TX
8326099	F-7C-062757	4243532852		103	107-TF	WICKS 58 "A" #1
-STUART DEVELOPMENT CO				RECEIVED:	03/07/83	JA: TX
8326065	F-7B-032542	4236731795		102-3		RUTH MARTIN #1
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/07/83	JA: TX
8326275	F-8A-064355	4250132232		103		BENNETT RANCH UNIT 8347
8326276	F-8A-064356	4250132223		103		BENNETT RANCH UNIT 8350
8326061	F-06-058224	4236531422		103		C E MOORE UNIT #3
8326062	F-06-058225	4236531423		102-TF		C E MOORE UNIT #3
8326271	F-09-064315	4227531244		102-4		FANT EST "2" #2
8326272	F-09-064314	4227531232		102-4		FANT EST "2A" #2
8326270	F-09-064312	4227531233		102-4		FANT EST "5A" #1
8326282	F-08-064365	4213500000		108		FOSTER JOHNSON UNIT 818-18
8326278	F-8A-064358	4221933516		103		SOUTHEAST LEVELLAND UNIT 8284
8326274	F-8A-064354	4221933518		103		SOUTHEAST LEVELLAND UNIT 8286
8326277	F-8A-064357	4221933501		103		SOUTHEAST LEVELLAND UNIT 8292
8326279	F-8A-064359	4221933507		103		SOUTHEAST LEVELLAND UNIT 8296
8326281	F-7C-064364	4238300000		108		UNIVERSITY A 1-1 1 & A 211 #1
8326280	F-7C-064365	4238300000		108		UNIVERSITY A 1-1 1 & A 211 #2
-TAMARACK PETROLEUM CO INC				RECEIVED:	03/07/83	JA: TX
8326119	F-7C-063496	4241331257		103	107-TF	JOHNSON "113" #1
-TEXACO INC				RECEIVED:	03/07/83	JA: TX
8326183	F-8A-063087	4221933659		103		J I DELBACHE NCT-3 #2
8326053	F-08-056989	4232931084		103		SCHARBAUER C "D" #7
8326048	F-10-058888	4206300000		108		T J BONEY NCT-3 #28
8326083	F-8A-062629	4216532411		103		WHARTON UNIT #163
-TEXAS CITY REFINING INC				RECEIVED:	03/07/83	JA: TX
8326019	F-02-061579	4229733212		102-4		CARTWRIGHT RANCH #1
8326023	F-02-061621	4219131560		102-4		TRULL #1
8326005	F-02-061622	4202531472		102-4		VELA ESTATE #1 (RRC ID 896946)
-TOM BROWN INC				RECEIVED:	03/07/83	JA: TX
8326132	F-08-063749	4231732553		103		AMOCO FLYNT #1
-TRI-EX OIL & GAS INC				RECEIVED:	03/07/83	JA: TX
8326075	F-02-059477	4202500000		102-4		MATOCHA #2
-TSPI INC				RECEIVED:	03/07/83	JA: TX
8326038	F-10-058483	4223300000		103		LATHAM-WISDOM #1-A
-TUMILE PRODUCTION CO INC				RECEIVED:	03/07/83	JA: TX
8326122	F-7B-063541	4205932687		102-4		HAL MCGLOTHLIN #1
-TXO PRODUCTION CORP				RECEIVED:	03/07/83	JA: TX
8326079	F-05-056121	4228930491		103	107-TF	MARSHALL "A" #1
-U S OPERATING INC				RECEIVED:	03/07/83	JA: TX
8326084	F-03-061764	4205131788		102-2		EVE #1 RRC ID # N/A
-VINSON EXPLORATION				RECEIVED:	03/07/83	JA: TX
8326082	F-7C-062611	4210500000		102-4		UNIV "29-C" #2
8326259	F-7C-064250	4210500000		102-4		UNIVERSITY "13-38" #1
8326261	F-7C-064252	4210500000		102-4		UNIVERSITY "14-38" #2
8326260	F-7C-064251	4210500000		102-4		UNIVERSITY "15-38" #1
8326258	F-7C-064229	4210500000		102-4		UNIVERSITY "24-38" #1
8326257	F-7C-064228	4210500000		102-4		UNIVERSITY "24-38" #2
8326263	F-7C-064234	4210500000		102-4		UNIVERSITY "6-38" #2
8326262	F-7C-064233	4210500000		102-4		UNIVERSITY "6-38" #2

FIELD NAME	PROD	PURCHASER
MARSHALL SW (COOK MTN	144.0	DELHI GAS PIPELIN
OPLIN E (MISSISSIPPI)	14.6	UNION TEXAS PETRO
SAWYER (CANYON)	168.0	PRODUCER'S GAS CO
BIG "A" TAYLOR	8.0	CLAJON GAS CO
J V T (CONGL 4250)	365.0	SOUTHWESTERN GAS
FAIR (MARBLE FALLS LO	208.0	NORTHERN GAS PROD
SANTA ROSA S (CLEARFO	91.2	DELHI GAS PIPELIN
STEPHENS COUNTY REGUL	18.0	WARREN PETROLEUM
ROSS (MARBLE FALLS LO	1856.0	LONE STAR GAS CO
NORTH TATUM (COTTON V	0.0	UNITED GAS PIPE L
FUZZY CREEK (GOEN)	72.0	
FUZZY CREEK (GOEN)	58.0	
FUZZY CREEK (GOEN)	34.0	
FUZZY CREEK (GOEN)	150.0	
FUZZY CREEK (GOEN)	18.9	
FUZZY CREEK (GOEN)	7.0	
KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
FARMER (SAN ANDRES)	1.3	INTERNORTH INC
FARMER (SAN ANDRES)	2.5	INTERNORTH INC
FARMER (SAN ANDRES)	1.8	INTERNORTH INC
HILBIG SOUTH (NAVARRO	45.0	VALERO TRANSMISSI
FANT (WILCOX 10,200)	500.0	UNITED TEXAS TRAN
GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
MARKHAM (FRIO 48333 R	0.0	FLORIDA GAS TRANS
WASSON	210.4	SHELL OIL CO
MONTE CHRISTO (VKSBG	760.0	VALERO TRANSMISSI
DESDEMONA N (CONGL)	15.0	NORTHERN GAS PROD
SO-TEX (FRY)	28.0	UNION TEXAS PETRO
WEATHERFORD SE (2150)	0.0	SOUTHWESTERN GAS
BULLHEAD CREEK (TROST	0.0	TRUNKLINE GAS CO
MIERS (CANYON)	110.0	INTRATEX GAS CO
SPRINGTOWN (COMYM)	150.0	
WASSON	3.0	SHELL OIL CO
WASSON	4.0	SHELL OIL CO
CARTHAGE	0.0	DELHI GAS PIPELIN
CARTHAGE	0.0	DELHI GAS PIPELIN
FANT	0.4	SUN GAS TRANSMISS
FANT	7.0	SUN GAS TRANSMISS
FANT	9.0	SUN GAS TRANSMISS
FOSTER	0.1	EPX CO
LEVELLAND	16.0	AMOCO PRODUCTION
LEVELLAND	12.0	AMOCO PRODUCTION
LEVELLAND	64.0	AMOCO PRODUCTION
LEVELLAND	6.0	AMOCO PRODUCTION
BIG LAKE SPRABERRY	0.0	EL PASO NATURAL G
BIG LAKE SPRABERRY	3.0	EL PASO NATURAL G
EL DORADO SOUTH (CANY	164.3	INTER NORTH INC
LEVELLAND	0.0	
WILDCAT	0.0	
PANHANDLE CARSON COUN	0.4	GETTY OIL CO
HARRIS	0.0	PHILLIPS PETROLEU
PROPOSED LA GARTO WES	0.0	
PROPOSED BONNIE VIEW	185.0	
TULETA SOUTH (SLICK)	75.0	
BREEDLOVE SOUTH (SPRA	28.0	NORTHERN GAS PROD
PENDING	50.0	
EAST PANHANDLE LOWER	200.0	DIAMOND SHAMROCK
LAJET (FLIPPEN)	1.0	LONE STAR GAS CO
BRANTON (COTTON VALLE	1500.0	DELHI GAS PIPELIN
CLAY N E (DEEP)	0.0	PHILLIPS PETROLEU
INGHAM (QUEEN)	18.0	SOUTHWESTERN GAS
INGHAM (QUEEN)	18.0	SOUTHWESTERN GAS
INGHAM (QUEEN)	91.0	SOUTHWESTERN GAS
INGHAM (QUEEN)	46.0	SOUTHWESTERN GAS
INGHAM (QUEEN)	36.5	SOUTHWESTERN GAS
INGHAM (QUEEN)	14.6	SOUTHWESTERN GAS
INGHAM (QUEEN)	22.0	SOUTHWESTERN GAS
INGHAM (QUEEN)	64.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VOEST EXPLORATION CO INC				RECEIVED:	03/07/83	JA: TX			
8326067	F-78-035895	4236332644		102-4		BANKHEAD-DAMM UNIT I #1	SANTO N (MARBLE FALLS	0.0	SOUTHWESTERN GAS
-W H TAYLOR ESTATE				RECEIVED:	03/07/83	JA: TX			
8326916	F-10-061224	4217900000		108		TAYLOR RANCH #20	WEST PANHANDLE (GAS)	16.4	PHILLIPS PETROLEU
-WAGNER & BROWN				RECEIVED:	03/07/83	JA: TX			
8326144	F-08-063897	4245333247		103		HILDEBRAND #51-12	CONGER (PENN)	171.6	TEXAS UTILITIES F
-WALTER EXPLORATION INC				RECEIVED:	03/07/83	JA: TX			
8326085	F-08-062788	4223734746		102-4		FLETCHER BROTHERS #1	BUFFTON (5550 CONGL)	0.0	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	03/07/83	JA: TX			
8326218	F-08-064199	4210331114		108		C-BAR SAN ANDRES UNIT 8A-14	C-BAR (SAN ANDRES)	0.5	EL PASO NATURAL G
8326219	F-08-064200	4210331129		108		C-BAR SAN ANDRES UNIT 8A-15	C-BAR (SAN ANDRES)	0.5	EL PASO NATURAL G
8326220	F-08-064201	4210302580		108		C-BAR SAN ANDRES UNIT BC-2	C-BAR (SAN ANDRES)	0.4	EL PASO NATURAL G
8326221	F-08-064202	4210331181		108		C-BAR SAN ANDRES UNIT BF-13	C-BAR (SAN ANDRES)	1.1	EL PASO NATURAL G
8326222	F-08-064203	4210331257		108		C-BAR SAN ANDRES UNIT BG-20	C-BAR (SAN ANDRES)	0.5	EL PASO NATURAL G
8326223	F-08-064204	4210331425		108		C-BAR SAN ANDRES UNIT BI-17	C-BAR (SAN ANDRES)	1.5	EL PASO NATURAL G
8326230	F-08-064211	4210311014		108		M B MCKNIGHT #105	ARMER (6350')	2.3	EL PASO NATURAL G
8326225	F-08-064206	4210300093		108		M B MCKNIGHT #33	ARMER (6350')	4.6	EL PASO NATURAL G
8326226	F-08-064207	4210300086		108		M B MCKNIGHT #36	ARMER (6350')	3.9	EL PASO NATURAL G
8326227	F-08-064208	4210300017		108		M B MCKNIGHT #49	ARMER (6350')	7.4	EL PASO NATURAL G
8326228	F-08-064209	4210300018		108		M B MCKNIGHT #50	ARMER (TUBB)	2.4	EL PASO NATURAL G
8326229	F-08-064210	4210310056		108		M B MCKNIGHT #85	ARMER (6350')	12.9	EL PASO NATURAL G
8326224	F-08-064205	4210300204		108		M F HENDERSON #103	C-BAR (SAN ANDRES)	0.5	EL PASO NATURAL G
8326186	F-08-064120	4210300162		108		M F HENDERSON #114	WADDELL	0.5	EL PASO NATURAL G
8326190	F-08-064125	4210300326		108		STATE "ED" #4	DUNE	1.5	EL PASO NATURAL G
8326189	F-08-064124	4210330814		108		STATE "ED" #7	DUNE	1.9	EL PASO NATURAL G
8326188	F-08-064123	4210302554		108		STATE "KK" #1	DUNE	0.3	EL PASO NATURAL G
8326187	F-08-064122	4210331224		108		STATE "KK" #21	DUNE	0.8	EL PASO NATURAL G
-WESTWIND EXPLORATION INC				RECEIVED:	03/07/83	JA: TX			
8326094	F-78-036675	4235331315		102-4		MCREYNOLDS	J & J CADDO FIELD	0.0	PALO DURO PIPELIN
-WHD INC				RECEIVED:	03/07/83	JA: TX			
8326106	F-08-063895	4217300000		102-2		TOM #1 (27253)	GORDON STREET (WOLFCA	16.0	PHILLIPS PETROLEU
8326107	F-08-063896	4217300000		103		TOM #6-X	GORDON STREET (WOLFCA	10.2	PHILLIPS PETROLEU
-WILLIAM PERLMAN				RECEIVED:	03/07/83	JA: TX			
8326263	F-7C-064272	4243532846		103	107-TF	MINNIE MAYER #3 ID #103116	SAWYER (CANYON)	0.0	VALERO TRANSMISSI
-WILSON ENERGY INC				RECEIVED:	03/07/83	JA: TX			
8326148	F-7C-063931	4210500000		108		UNIVERSITY 10 #1	FARMER (SAN ANDRES)	0.4	J L DAVIS
8326149	F-7C-063932	4210500000		108		UNIVERSITY 10 #2	FARMER (SAN ANDRES)	0.4	J L DAVIS
8326150	F-7C-063933	4210532249		108		UNIVERSITY 10 #3	FARMER (SAN ANDRES)	0.4	J L DAVIS
8326151	F-7C-063934	4210533295		108		UNIVERSITY 10 #4	FARMER (SAN ANDRES)	0.4	J L DAVIS
8326152	F-7C-063935	4210533296		108		UNIVERSITY 10 #5	FARMER (SAN ANDRES)	0.4	J L DAVIS
8326155	F-7C-063938	4210531713		108		UNIVERSITY 12 "B" #1	FARMER (SAN ANDRES)	0.7	J L DAVIS
8326154	F-7C-063937	4210531741		108		UNIVERSITY 12 "B" #2	FARMER (SAN ANDRES)	0.7	J L DAVIS
8326156	F-7C-063940	4210531964		108		UNIVERSITY 13 #1	FARMER (SAN ANDRES)	2.9	J L DAVIS
8326153	F-7C-063736	4210531962		108		UNIVERSITY 13 "A" #1	FARMER (SAN ANDRES)	0.4	J L DAVIS
-WILSON RESOURCES INC				RECEIVED:	03/07/83	JA: TX			
8326160	F-06-063986	4248131500		103		A S WOLFE #2	HENDERSON (RUSK COUNT	100.0	UNITED GAS PIPELI
-WINDSOR GAS CORP				RECEIVED:	03/07/83	JA: TX			
8326262	F-7C-064266	4243532803		103	107-TF	DUKE WILSON #1876 ID #103117	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
8326261	F-7C-064265	4243536202		103	107-TF	DUKE WILSON #1875 ID #103118	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
-WOODSIDE OIL CO				RECEIVED:	03/07/83	JA: TX			
8326264	F-8A-064278	4203330767		103		GRIFFIN "C" #1	HOBO (PENNSYLVANIA)	250.0	GETTY OIL CO

[FR Doc. 83-8777 Filed 4-4-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Tuesday
April 5, 1983

Part V

Department of Transportation

Federal Highway Administration

Truck Size and Weight Policy Statement

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-4, Notice No. 3]

Truck Size and Weight Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of policy statement.

SUMMARY: This policy statement provides an interim designation of highways on which commercial motor vehicles with dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA) may operate beginning April 6, 1983. This interim designated network is required by the STAA of 1982 and is based on submissions made by the States as well as comments submitted to the public docket. The interim designated highway network will accommodate the needs of interstate commerce while not compromising the essential requirements for safety and structural integrity until such time as final regulations are issued.

DATES: This policy statement is effective April 6, 1983, and will expire upon issuance of the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Harry B. Skinner, Office of Traffic Operations, (202) 426-1993, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On Thursday, February 3, 1983, The Federal Highway Administration (FHWA) published a policy statement in the **Federal Register** (48 FR 5210) discussing its approach to the implementation of the truck size and weight provisions in the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97-424, 96 Stat. 2097) and the Department of Transportation Appropriations Act of 1983 (DOTAA) (Pub. L. 97-369). That policy statement set forth the rationale in establishing an interim, uniform system of highways which would be available to commercial motor vehicles on April 6, 1983.

The February 3, 1983, policy statement was intended to establish a highway network consisting of (1) the Interstate System, (2) four-lane, divided sections of the Federal-Aid Primary System (FAP) with full control of access and, (3) other FAP highways as identified by each State to accommodate the needs of interstate commerce without compromising safety and structural integrity. Almost all of the States have provided the FHWA with a list of their proposed designated network.

The designated route submissions from many States were quite complete and provided extensive coverage. Other States, however, submitted unrealistically lean designations. In assessing these States' responses we find that many of the less comprehensive designations were attributable to constraints imposed by State legislative or administrative requirements, such as a need for public hearings. Thus, some States were unable to comply with the intent of the February 3 policy statement. Several States have designated unconnected and fragmented highway segments. A designated network that contains such discontinuities or that fails to provide reasonable coverage in addition to the Interstate System would not meet the objectives of the STAA to facilitate the free flow of commerce.

We have reviewed the comments submitted to the docket established by the FHWA February 3, 1983, policy statement, and the results of public hearings of both the National Motor Carrier Advisory Committee (NMCAC) and the American Association of State Highway and Transportation Officials (AASHTO). Representatives of vehicle manufacturers, shippers, trucking firms and independent truckers have stated that the full productivity gains intended by the STAA could not be realized if a fragmented network of highway truck routes, governed by different regulations, were designated. Further, uncertainty over the designated highways and reasonable access provisions and potential State-to-State variability in regulations are delaying new equipment orders. These representatives indicated a willingness to cooperate with all requirements necessary to maintain the safety of the traveling public and the structural integrity of the system.

The States are in the process of formulating a position through AASHTO on the implementation of the STAA size and weight provisions. Preliminary indications are that the States endorse the need for industry productivity gains, but are concerned that the burden of proof for safety and operational requirements for designated highways rests upon them.

We recognize that the implementation of these truck size and weight provisions is a complex undertaking which will require many changes to existing State and industry procedures. The FHWA will implement the STAA in a manner consistent with the congressional direction of enhancing productivity gains, without compromising safety or structural integrity.

This notice establishes an interim designated network. Effective April 6, 1983, and until the issuance of final regulations, State and local jurisdictions must allow the operation of commercial motor vehicles with the dimensions authorized by the STAA on the full Interstate System and on those designated FAP and other highways identified in the Appendix except as follows:

- States and local jurisdictions may continue to enforce complete truck restrictions on those highways where no trucks were permitted to operate on January 6, 1983, such as I-66 in Northern Virginia and the District of Columbia.
- States and local jurisdictions may impose and enforce truck restrictions during certain peak hours of travel demand or on specific travel lanes of multi-lane facilities, such as I-94 in Chicago.
- State or local restrictions on truck movements for specific construction-related, seasonal, structural or clearance restrictions, may be imposed and enforced, such as the bridge clearance restrictions on I-278 in New York City

Restrictions in the latter two categories listed above must be based on documented safety, structural integrity or major traffic capacity problems that would be incurred in the absence of such restrictions.

We have received requests from several States to exclude vehicles of the new larger configurations, particularly double trailers on urban Interstate routes. We are not approving these requests at this time. The larger truck configurations provided in the STAA must be allowed to operate on routes on which tractor-semitrailer combination trucks were permitted to operate on January 6, 1983. As States gain experience with the operating characteristics of the larger truck configurations additional or altered restrictions may be developed and implemented in a manner consistent with the intent of the Congress.

The designated routes in the Appendix reflect State submissions which have been supplemented in order to achieve an interconnected network providing reasonable nationwide coverage. These routes make available an average of 53 percent of each State's non-Interstate FAP to accommodate the needs of commerce on an interim basis.

Nationwide, the designated mileage of 134,001 FAP and 42,268 Interstate represents 4.6 percent of all public road mileage. Exceptions to the interim designated network may be granted by FHWA upon request by the States on a case by case basis where road segments will not safely accommodate the larger vehicles due to structural or geometric limitations.

It should be recognized that the STAA did not require immediate change in the weight laws of the barrier States. The Congress specifically stated that a reasonable time period should be granted to States to achieve compliance. We understand that Illinois has not enacted new weight legislation and their current weight limits are 18,000 pounds on a single axle, 34,000 pounds on a tandem axle, and 73,280 pounds gross vehicle weight. In using the designated network, including the Interstate System, in Illinois, vehicles must comply with the State weight laws. This State is expected to be in compliance with the STAA weight provisions by October 1, 1983.

The STAA requires a final rule to designate qualifying highways by October 3, 1983. In the interim, the States have the authority and are encouraged to add highway sections to the federally designated network. In the final rule, we anticipate that a substantial portion of the entire FAP will be designated. Exceptions will be granted for roadway segments on the FAP incapable of safely accommodating the larger vehicles. Criteria for excepting these segments will be stated in a notice of proposed rulemaking (NPRM) to be published in the next few weeks. Opportunity for public comment will be provided. We intend to work closely with appropriate public, industry and safety interests in developing the final regulations.

Questions have been raised on interpretation of grandfather provisions, specialized equipment and truck width. We recognize the importance and complexity of these issues and will address them in the NPRM.

Issued on: March 31, 1983.

R. A. Barnhart,

Federal Highway Administrator.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES

Posted route No.	From	To
Alabama		
US 84	Missisippi St. Line	Georgia St. Line.
AL 52	US 84 Dothan	Georgia St. Line.
US 80	I-20 Mississippi St. Line.	I-65 Montgomery.
US 82	Mississippi St. Line	Jct. US 82-AL 152 near Montgomery.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
AL 110	AL 152 near Montgomery.	US 82 Union Springs.
US 78	Mississippi St. Line	I-59 Birmingham.
US 280	459 Birmingham	Georgia St. Line.
US 72	Mississippi St. Line	Tennessee St. Line.
Alt. US 72	US 72 Muscle Shoals	I-65 Decatur.
US 82	AL 110 Union Springs.	Georgia St. Line.
AL 152	I-65 near Montgomery.	I-65 near Montgomery.
US 45	I-65 Mobile	Mississippi St. Line.
US 43	I-65 Mobile	US 78 Winfield.
US 43	US 78 Hamilton	US 72 Muscle Shoals.
US 43	US 72 near Florence	Tennessee St. Line.
AL 59	I-10 Loxley	I-65 near Stockton.
US 29	Florida St. Line	US 31 Flomaton.
US 31	US 29 Flomaton	I-65 Evergreen.
US 231	Florida St. Line	US 82 near Montgomery.
US 231	I-85 Montgomery	US 280 Sylacanga.
Alt. US 231	US 231-Sylacanga	I-20 Talladega.
Alt. 21	Alt. US 231 Talladega.	US 431 Anniston.
US 431	US 231 Dothan	US 280 Phenix City.
US 431	US 280 Opelika	Gadsden.
US 231	US 72 Huntsville	Tennessee St. Line.
US 411	US 431 Gadsden	Georgia St. Line.
AL 77	I-59 Gadsden	US 431 Attala.
US 431	AL 77 Attala	US 231 Huntsville.
US 31	Fultondale	Warrior.
US 78	Irondale	Leeds.
AL 20	I-65	US 431 in Huntsville.
Alaska		
AK 1	Soldotna	Tok/AK 2 Jct.
AK 2	Fairbanks/AK 3 Jct.	Canadian border.
AK 3	Palmer/AK 1 Jct.	Fairbanks/AK 2 Jct.
Arizona		
AZ 360	I-10 Phoenix	AZ 87 Mesa.
US 60	I-10 Brenda	I-17 Phoenix.
US 60	AZ 87 Mesa	New Mexico St. Line.
AZ 69	US 89 Prescott	I-17.
US 70	US 60 Globe	New Mexico St. Line.
US 80	AZ 92 Bisbee	New Mexico St. Line.
AZ 84	I-10 Picacho	AZ 87.
AZ 85	I-8 Gila Bend	I-10.
AZ 85	I-10 Avondale	I-17.
AZ 87	AZ 84 Picacho	AZ 387.
AZ 87	AZ 93 Chandler	US 60.
AZ 93	I-10	AZ 87 Chandler.
AZ 187	I-10	AZ 387.
AZ 287	AZ 87 Coolidge	US 89 Florence.
AZ 387	AZ 187	AZ 87.
US 89	I-10 Tucson	US 60.
US 89	AZ 69 Prescott	I-40.
US 89	I-40	Utah St. Line.
AZ 90	I-10	AZ 92 Sierra Vista.
AZ 92	AZ 90 Sierra Vista	US 80 Bisbee.
US 95	Mexican Border	I-8 Yuma.
US 160	US 89 Tuba City	New Mexico St. Line.
AZ 169	AZ 69 Dewey	I-17.
AZ 189	Mexican Border	I-19 Nogales.
AZ 504	US 160	New Mexico St. Line.
US	666I-10	US 70 Safford.
US 666	US 60	I-40.
US B-666	Mexican Border	US 80 Douglas.
US 163	US 160 Kayenta	Utah St. Line.
US 77	US 60	I-40.
Arkansas		
US 49	Mississippi St. Line	US 62 Near Piggott.
US 61	I-55 Gilmore	I-55 Blytheville.
US 62	Oklahoma St. Line	Missouri St. Line.
US 63	I-55 Near Memphis	Missouri St. Line.
US 64	I-540 Ft. Smith	I-40 Lamar.
US 64	I-40 Near Conway	US 67 Near Beebe.
US 65	Louisiana St. Line	I-40 Little Rock.
US 65	I-40 Conway	Missouri St. Line.
US 64	US 67 Bald Knob	I-55 West Memphis.
US 67	US 82 Texarkana	I-30 Benton.
US 67	I-40 Little Rock	US 62.
US 67	US 62 Corning	Missouri St. Line.
US 70	Oklahoma St. Line	US 71 De Queen.
US 70	US 71 Provo	I-30 Benton.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 71	Louisiana St. Line	I-540 Ft. Smith.
US 71	I-40 Alma	US 62 Fayetteville.
US 71	US 62 Rogers	Missouri St. Line.
US 79	Louisiana St. Line	I-40 Shearerville.
US 82	US 71 Texarkana	Mississippi St. Line.
US 70	I-440 Little Rock	I-40 Hicks Station.
US 412	US 67 Walnut Ridge	US 49 Paragould.
US 167	US 67 Bald Knob	US 62 Ash Flat.
US 167	Louisiana St. Line	US 65 Near Little Rock.
US 165	Louisiana St. Line	US 65 Dermott.
US 270	Oklahoma St. Line	US 71 Acorn.
US 270	US 71 "Y" City	US 65 Pine Bluff.
All other primary and secondary highways in Arkansas (with the following exceptions) are "qualifying" highways, but may have weight and speed limit restrictions.		
AR 88	Mena AR8	Oklahoma St. Line.
AR 22	I-540 Fort Smith	US 64.
US 64	AR 255	AR 22.
AR 59	I-40 Van Buren	Main Street Van Buren.
US 71	US 271	AR 22.
AR 68	Oklahoma St. Line	Springdale.
California		
CA 2	I-5	I-210 in Los Angeles.
CA 7	I-405	I-10.
I-10	US 101	I-5 in Los Angeles.
CA 11	I-10	US 101.
CA 15	I-5	I-805 in San Diego.
CA 17	I-280 in San Jose	I-80 in Oakland.
CA 22	I-405 in Seal Beach	CA 55 in Orange.
CA 24	I-580 in Oakland	I-680 in Walnut Creek.
CA 52	I-5	I-805 in San Diego.
CA 55	I-405 in Costa Mesa	CA 91 in Anaheim.
CA 57	I-5 in Santa Ana	I-210 in Pomona.
CA 60	I-5/10 in Los Angeles.	I-10 in Beaumont.
CA 71	I-10	CA 60 in Pomona.
CA 78	I-5 in Carlsbad	I-15 in Escondido.
Bus I-80	US 50/CA 99 in Sacramento.	I-80 Near Walt Ave.
CA 85	I-280	CA 101 in San Jose.
CA 91	I-110 in Los Angeles	CA 60/I-215 in Riverside.
CA 92	I-280 Near San Mateo.	CA 17 in Hayward.
CA 94	I-5	CA 125 in San Diego.
CA 99	I-5 Near Wheeler Ridge.	US 50 in Sacramento.
US 101	I-5/10 in Los Angeles.	I-80 in San Francisco.
CA 117	I-5	I-805 in San Diego.
CA 118	I-405 in Los Angeles	I-210 in San Fernando.
CA 125	CA 94	I-8 in La Mesa.
CA 133	I-405	I-5 Near El Toro.
CA 134	US 101 in Los Angeles.	I-210 in Pasadena.
CA 163	I-8	I-15 in San Diego.
CA 170	US 101	I-5 in Los Angeles.
CA 215	I-15 Near Temecula	CA 60 Near Riverside.
CA 238	I-580 in Castro Valley.	CA 17 in San Leandro.
CA 14	I-5 Near San Fernando.	US 395 Near Ridgecrest.
CA 46/41	US 101 in Paso Robles.	CA 99 in Fresno.
CA 58	CA 99 in Bakersfield	I-15 in Barstow.
CA 97	I-5 Weed	Oregon St. Line, Doris.
US 101	CA 17 (I-180) San Rafael.	Oregon St. Line.
CA 198	I-5 Coalinga	CA 99 Visalia.
CA 197	US 101	Oregon St. Line.
US 395	I-15 Near Victorville	Nevada St. Line.
US 395	Nevada St. Line	Oregon St. Line.
CA 95	US 40 Near Needles	Nevada St. Line.
US 6	US 395 Bishop	Nevada St. Line.
US 50	Sacramento	Nevada St. Line.
US 199	US 101	Oregon St. Line.
US 97	I-5	Oregon St. Line.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
Colorado		
All US and State numbered routes are designated with the following exceptions:.		
CO 116	Jct. CO 69	Kansas St. line.
CO 86	Jct. 83	Jct. 40.
CO 7	Jct. 72	Jct. 36.
CO 72	Jct. 7	Jct. 119.
CO 119	Jct. 6	Jct. 7.
US 40	Jct. I-70 Near Empire	Winter Park.
CO 6	Jct. I-70 Near Dillon	Jct. I-70 Near Silver Plume.
CO 82	Aspen	Jct. 24.
CO 133	Jct. 92 Hotchkiss	Jct. 82 Carbondale.
CO 92	Jct. US 50 Sapinero	Jct. 133 Hotchkiss.
CO 149	US 160 Near Fork	Jct. US 50.
US 550	Jct. CO 110 Silverton	Jct. CO 361 Ouray.
US 470	Jct. 75	Jct. I-25.
The designated routes in Colorado include most of the Federal-aid Primary Routes as well as other routes designated by the States.		
Connecticut		
US 7	I-95 Norwalk	I-84 West of Danbury.
US 7	I-84 near Danbury	Massachusetts St. Line.
US 6	CT 25 Newtown	I-84 Sandy Hook.
CT 25	CT 8 Bridgeport	US 6 Newtown.
CT 8	I-95 Bridgeport	US 44 Winsted.
US 44	US 7 Canaan	CT 8 Winsted.
CT 66	I-84 Marion	I-91 East Meriden.
CT 72	CT 8 Thomastown	I-91 East Berlin.
CT 9	I-91 Cromwell	I-95 Old Saybrook.
CT 2	I-84 East Hartford	CT 52 Norwich.
CT 85	CT 52 near New London.	CT 82 Salem Four Corners.
CT 82	CT 85 Salem Four Corner.	CT 11 near Salem.
CT 11	CT 82 near Salem	CT 2 Colchester.
US 6	I-86 Manchester	I-84 Columbia.
US 6	I-84 North Windham	Rhode Island St. Line.
CT 2	I-95 near North Stonington.	CT 78 near Pawcatuck.
CT 78	CT 2 near Pawcatuck	Rhode Island St. Line.
CT 401	Bradley International Airport Acc. Rd., Windsor Locks.	CT 20 Windsor Locks.
CT 20	CT 401 Bradley International Airport Con. Windsor Locks.	I-91 Windsor.
CT 52	I-95 East Lyme	Massachusetts St. Line.
Connecticut permits trucks with Federal weight and width limits on all highways except parkways.		
Delaware		
DE 141	I-95	Jct. w/DE 2.
US 13	Jct. 2/I-495 South of Wilmington.	Maryland St. Line.
US 301	US 13 near Red Lion	Maryland St. Line.
DE 299	Middletown	Odessa.
US 202	I-95 Wilmington	Pennsylvania St. Line.
District of Columbia		
Anacostia Freeway/ Kenilworth Ave..	I-295	Maryland St. Line.
Florida		
US 1	Key West	Homestead.
US 17	Solano at I-75	Fort Meade.
US 19	I-4 near Pinellas Park.	Crystal River.
US 19-98	Crystal river	Perry.
US 19	Capps	Georgia St. Line.
US 27	Pennsuco	Andytown.
US 27	Andytown	South Bay.
US 27	South Bay	Leesburg.
US 27-441	Leesburg	Belleview.
US 27-301	Belleview	Ocala.
US 27	Tallahassee	Ft. Walton Beach.
US 27	Perry	I-75.
US 27	South Bay	US 441 at Belle Glade.
US 29	Pensacola	Alabama St. Line.
US 98	Pensacola	Perry.
US 98	Fort Meade	Lakeland at I-4.
US 231	Panama City	Alabama St. Line.
US 301	Ocala	Georgia St. Line.
US 319	Tallahassee	Georgia St. Line.
US 319	Medart	Tallahassee.
US 441	Belle Glade	US 98 West Palm Beach.
FL 24	Gainesville	US 301 at Waldo.
FL 27	Homestead	Pennsuco.
FL 40	Ocala	I-95.
FL 60	I-75 near Brandon	Vero Beach.
FL 80	Tice at I-75	US 27 at Clewiston.
FL 84	US 27 at Andytown	I-95.
FL 85	Ft. Walton Beach	I-10.
FL 202	I-95 in Jacksonville	San Pablo Road.
J. Turner Butler Blvd..		
US 27	I-10 Tallahassee	Georgia St. Line.
FL 20	Valparaiso	US 90 near Tallahasse.
Georgia		
US 27	Near GA 179C	GA 411.
US 27	At I-85	Tennessee St. Line.
US 319	Florida St. Line near Thomasville.	I-75 US 82 Tifton.
US 19	Florida St. Line near Thomasville.	I-285 Atlanta.
US 129-221	Near Statenville	US 441 and US 82.
US 441	Near GA 94 at Florida St. Line.	North of Dillard & GA 246.
US 301	Near GA 40 Folkston	Near GA 73 at South Carolina St. Line.
US 1	At US 82 Waycross	Savannah River, South Carolina St. Line near Augusta.
US 19	GA 369 Coal Mountain.	North Carolina St. Line near Ivy Log.
US 84	Saffold at GA 83 on Alabama St. Line.	I-95 at Blythe Island Naval Reservation.
GA 62	Alabama St. Line	US 27 at Blakely.
US 82	At Alabama St. Line	Near Midway at I-95
US 280	Cusseta	I-16.
US 80	Big Springs at Alabama St. Line.	I-75 near Macon.
US 411	At GA 53 near Cave Spring.	US 41 at GA 293.
US 41	At GA 293	I-285 near Atlanta.
US 78	GA 410 near I-285	Savannah River, South Carolina St. Line.
GA 72	GA 8 Athens	Near Middleton, South Carolina St. Line.
US 76	I-75 at Tennessee St. Line.	Chattooga River, South Carolina St. Line.
US 23	Gainesville	Baldwin US 441.
US 123	Baldwin US 441	Tagalo River, South Carolina St. Line.
US 378	At GA 17 near Washington.	Savannah River, South Carolina St. Line.
Hawaii		
61	Vineyard Boulevard	Kawainui Bridge in Kailua.
63	Nimitz Highway	Kahekili Highway (83).
64	Sand Island Park	Nimitz Highway (92)
72	Kailua-Waimanalo Junction (61).	Ainakoa.
83	Weed Junction	Kalanianaole Highway (61).
92	Pearl Harbor-Main Gate.	Kalakaua Avenue.
93	Beginning of Route H-1.	Makaha Bridge.
95	Route H1	Campbell Harbor.
99	Pearl Harbor Interchange.	Weed Junction.
78	Route H1 (H2 H)	Kamehameha Highway (90) in Aiea.
Idaho		
US 2	Washington	Sandpoint.
US 2	US 95 Bonner Ferry	Montana St. Line.
ID 16	ID 44	Emmett.
ID 19	Wilder	Caldwell.
US 12	US 95 Near Lewiston	Montana St. Line.
US 20	Oregon St. Line	I-84 near Boise.
US 20	Mountain Home	Montana St. Line.
ID 22	ID 33	Dubois.
ID 24	Rupert	Shoshone.
ID 25	Jerome	I-84 Rupert.
US 26	Bliss	Blackfoot.
US 26	Idaho Falls	Wyoming St. Line.
ID 27	Oakley	Paul.
ID 28	Mud Lake	Salmon.
US 30	US 95	I-84.
US 30	Nampa	I-84.
US 30	Bliss	Burley.
US 30	McCammon	Wyoming St. Line.
ID 33	US 20	Wyoming St. Line.
ID 34	Utah St. Line	Conda.
ID 39	American Falls	Blackfoot.
ID 40	I-15	Downey.
ID 41	I-90	Newport.
ID 44	I-84	Boise.
ID 46	Wendell	US 20.
ID 48	Roberts	Rigby.
ID 50	US 30	ID 25.
ID 51	Nevada St. Line	Mountain Home.
ID 53	Washington St. Line	US 95.
ID 55	Marsing	Eagle.
ID 64	Craigmont	Nez Perce.
ID 67	Mountain Home AFB	Mountain Home.
ID 74	US 93	Twin Falls.
ID 75	Shoshone	Ketchum.
ID 77	Declo	I-84.
ID 78	Marsing	ID 51.
ID 81	Malta	Burley.
ID 79	Jerome	South.
ID 87	US 20	Montana St. Line.
US 89	Utah St. Line	Montpelier.
US 91	Utah St. Line	I-15.
US 91	Pocatello	I-15 Bus.
US 93	Nevada St. Line	Shoshone.
US 93	Salmon	Montana St. Line.
US 95	Weisner	Canadian Border.
I-15 Bus.	I-15	Idaho Falls.
I-84 Bus.	I-84	Mountain Home.
Illinois		
IL 5	I-80	US 30 Sterling.
IL 6	I-74	IL 86 Peoria.
US 20	I-90	US 20 West of Rockford.
US 50	Indiana St. Line	East of Lawrenceville.
US 51	US 20	IL 5.
IL 53	I-90	IL 68.
IL 53	I-290	Army Trail Road.
IL 394	I-80	Sauk Trail Chicago Heights.
IL 3	Cairo	East St. Louis.
US 50	Missouri St. Line	IL 3.
IL 13	Murphysboro	US 45 Harrisburg.
IL 149	IL 3	Murphysboro.
IL 146	Ware	I-57.
US 51	Anna IL 146	Rochelle.
US 45-1	I-24 at Vienna	I-70.
US 67	Alton	Moline.
IL 130	Grayville	Newton.
IL 33	Newton	I-70.
IL 29	Pana	Springfield.
IL 125-97	Springfield	US 67 Beardstown.
US 54	Missouri St. Line	US 36 near Pittsfield.
US 52	Iowa St. Line	IL 5 Dixon.
US 50	I-64 East St. Louis	Lawrenceville.
US 36	Missouri St. Line	I-55.
US 36	Decatur	Indiana St. Line.
US 30	Iowa St. Line Clinton	IL 5 Sterling.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 24	Quincy	Indiana St. Line.
US 136	Near Keokuk, IA	Macomb US 67.
US 34	Iowa St. Line near Gulfport.	IL 5 Toll Road IL 88.
US 20	East Dubuque	Rockford.
IL 26	Freeport	Wisconsin St. Line.
IL 68	US 12	I-94.
IL 31	I-90	Wisconsin St. Line.
US 45	IL 173	Wisconsin St. Line.
IL 173	US 45	I-94.
US 34	Oswego	Illinois Toll Road.
IL 88	US 34	I-80.
IL 141	US 45 Gossett	Indiana St. Line.

Indiana

Indiana intends to designate all public roads, except those routes prohibited by State or Local jurisdiction.

Iowa

US 18	South Dakota St. Line.	Wisconsin St. Line.
US 20	I-29 at Sioux City	Illinois St. Line.
US 30	Exit 75 on I-29	Illinois St. Line.
US 34	Exit 35 on I-29	Illinois St. Line.
US 52	Near Jct. US 61/151 at Dubuque.	Minnesota St. Line.
US 61	Missouri St. Line	Wisconsin St. Line.
US 63	Missouri St. Line	Minnesota St. Line.
US 65	Missouri St. Line	IA 330 Jasper Co.
US 71	Missouri St. Line	Minnesota St. Line.
US 75	Exit 143 on I-29	Minnesota St. Line.
US 151	US 30/218 at Cedar Rapids.	Wisconsin St. Line.
US 169	US 18 Algona	Minnesota St. Line.
US 218	US 61 at Montrose	Minnesota St. Line.
IA 3	US 218 at Waverly	US 20 at Dubuque.
IA 8	US 63 at Thayer	US 218 Benton Co.
IA 13	US 30 Linn Co.	US 52 Near Froelich.
IA 24	US 18/63 at New Hampton.	US 52 at Calmar
IA 38	US 61 at Muscatine	Near Jct. IA 64 Jones Co.
IA 56	US 18 at West Union	IA 13 at Elkader.
IA 60	US 75 at Lemars	Minnesota St. Line.
IA 64	US 151 at Anamosa	Illinois St. Line.
IA 92	Exit 47 on I-29	US 61 Near Grandview.
IA 136	Near Jct. IA 64 at Wyoming.	US 52/IA 3 at Luxemburg.
IA 163	US 65/69 at Des Moines.	IA 92 at Oskaloosa.
IA 330	US 65 Jasper Co.	US 30 Nr. Marshalltown.
IA 346	US 218 at Nashua	US 18/63 Chickashaw Co.

Kansas

All US and State numbered routes are designated. This includes all Federal-aid primary routes as well as other routes designated by the State.

Kentucky

JP 9003	Tennessee St. Line	US 45 Bypass.
US 45B	JP 9003 in Graves Co.	JP 9003.
JP 9003	US 45 Bypass	I-24 in McCracken Co.
WK 9001	I-24	US 31W Hardin Co.
BG 9002	I-65	US 60 near Lexington.
GP 9007	I-65	US 60 Bypass.
MT 9000	I-64	Campton Spur, Ohio St. Line.
KY 4	US 25	US 27
PENN 9004	US 41A	US 41
US 41	PENN 9004	PENN 9004 at Madisonville.
PENN 9004	US 41	US 41 at Henderson.
US 41	PENN 9004	End Concrete Barrier.
AUD 9005	PENN 9004 in Henderson Co.	US 60 Bypass.
CUM 9008	I-65	West of US 27.
KY 4	US 68	KY 922
KY 4	US 27	US 68
KY 471	US 27	I-275
KY 841	KY 135	US 42
KY 4	US 25-421 SE of Lexington.	KY 922
KY 8	I-75 in Covington	US 27 in Newport.
KY 10	Germantown	US 62 at Maysville.
KY 11	Lewisburg	Maysville.
KY 15	Mountain Pkwy at Campton.	US 119 at Whitesburg.
KY 18	KY 338 at Burlington	US 25 in Florence.
KY 21	I-75	US 25 in Berea.
US 23	Ohio St. Line	US 119 at Pikeville.
US 23	US 119 near Jenkins	Virginia St. Line.
US 25	US 421	I-75 near Richmond
US 25	KY 418	Nandino Blvd in Lexington.
US 25	US 42 in Florence	Ohio St. Line.
US 25E	Virginia St. Line	US 119.
US 25E	KY 2015 near Pineville.	I-75.
US 27	Tennessee St. Line	Ohio St. Line.
US 31E	Tennessee St. Line	US 68 at Glasgow.
US 31W	Tennessee St. Line	KY 255 at Park City.
US 31W	US 31W Bypass in Elizabethtown.	I-264.
US 31W Bypass.	KY 1136	US 31W Bypass in Elizabethtown.
KY 32	I-64	US 60 at Morehead.
KY 35	US 127 at Bromley	I-71.
KY 36	I-64	US 60 at Owingsville.
KY 36	US 42 in Carrollton	KY 227.
US 41	End of Concrete Barrier Section.	Indiana St. Line.
US 41A	Tennessee St. Line	Pennyrile Pkwy.
US 41A	Earlington	Madisonville.
US 42	I-264	Oldham County Line.
US 42	KY 55 at Carrollton	KY 47 at Ghent.
US 45	Mayfield	Paducah.
KY 52	Richmond	Irvine.
KY 55	Cumberland Pkwy	South of Lebanon.
KY 55	US 68 in Lebanon	Springfield.
US 60	Owensboro	Hawesville.
US 60	I-264	KY 1531 at Eastwood.
US 60	US 421 in Frankfort	I-75, near Lexington.
US 60	KY 180	US 23 in Ashland.
Us 60 Bypass.	US 60	US 60 at Owensboro.
Us 62	I-24 at Paducah	West Kentucky Pkwy.
US 62	KY 353	US 27 at Cynthiana.
US 68	I-24	Bowling Green.
US 68	KY 4 in Lexington	Maysville.
KY 79	KY 1051 in Brandenburg.	Indiana St. Line.
KY 80	US 27 at Somerset	I-75 Near London.
KY 80	Daniel Boone Pkwy	Near Hazard.
KY 80	KY 15 at Hazard	US 23 at Allen.
KY 90	I-65	Cumberland Pkwy at Glasgow.
KY 90	Monticello	US 27 at Burnside.
KY 114	US 460 at Salyerville	Prestonsburg.
KY 118	Daniel Boone Pkwy	Hyden.
US 119	Pineville	US 23 at Jenkins.
US 127	Tennessee St. Line	I-64.
US 127	I-64	I-71.
US 127 Bypass.	US 127	US 127 at Danville.
US 127 Bypass.	US 127	US 127 at Lawrenceburg.
US 150	Bardstown	US 27 near Stanford.
US 79	Tennessee St. Line	US 68 Russellville.
US 119	Pikeville	West Virginia St. Line.
KY 151	US 127 near Lawrenceburg.	I-64.
KY 180	I-64	US 60 at Cannonburg.
KY 192	I-75	Daniel Boone Pkwy at London.
KY 206	Mountain Pkwy	US 460.
KY 212	KY 20	Greater Cincinnati Airport.
KY 227	KY 355 near Worthville.	KY 36 at Carrollton.
US 231	I-65	US 31W Bypass at Bowling Green.
US 231	US 60 Bypass	Indiana St. Line.
KY 236	KY 212	US 25 at Erlanger.
KY 237	KY 18	I-275 Boone County.
KY 245	I-65	US 62 at Bardstown.
KY 255	US 31W at Park City	I-65.
KY 259	West Kentucky Pkwy	US 62 in Leitchfield.
KY 341	US 421 near Midway	I-64.
KY 348	Jackson Purchase Pkwy.	US 641 in Benton.
KY 418	US 25, South of Lexington.	I-75.
US 421	KY 80	Manchester.
US 421	US 25 in Lexington	KY 341 near Midway.
US 421	US 460 in Frankfurt	Broadway.
US 431	US 60 Bypass	US 60 in Owensboro.
KY 446	US 31W, Northwest of Bowling Green.	I-65.
US 460	I-64	KY 686 near Mt. Sterling.
US 460	KY 114	US 23 near Paintsville.
KY 555	US 150 at Springfield	Bluegrass Pkwy.
US 641	Tennessee St. Line	KY 348 in Benton.
KY 676	US 127 in Frankfort	US 60.
KY 686	KY 11 at Mt. Sterling	US 460.
KY 876	I-75 at Richmond	KY 52.
KY 922	US 25 in Lexington	I-75.
KY 1051	KY 448 South of Brandenburg.	KY 79.
KY 1682	US 68 at Hopkinsville	KY 107.
KY 1751	US 41A in Madisonville.	US 41.
KY 1958	KY 627 at Winchester.	I-64.
KY 1996	US 27 at Cold Springs.	KY 9.
Daniel Boone Pkwy.	US 25 at London	KY 15 near Hazard.
Mountain Pkwy Extension.	End of Mountain Pkwy at Campton.	US 460.
US 62	Ohio St. Line	KY 11 at Maysville.

Louisiana

LA 1	US 71 in Alexandria	US 71 near Shreveport.
LA 7	I-20	US 79 in Minden.
LA 8	Texas St. Line	LA 28 near Leesville.
LA 10	Proposed I-49 near Beggs.	US 71 Lebeau.
LA 14	US 90	I-210 in Lake Charles.
LA 15	US 65 Clayton	US 80 in Monroe.
LA 28	LA 8 near Leesville	US 84 near Archie.
US 65	Mississippi St. Line	LA 15 Clayton.
US 65	I-20 in Tallalah	Arkansas St. Line.
US 71	US 190 near Kortz Springs.	US 165 in Pineville.
US 71	LA 1 near Shreveport	Arkansas St. Line.
US 79	LA 7 in Minded	Arkansas St. Line.
US 80	LA 15	US 165 in Monore.
US 84	LA 28 near Archie	US 65 in Ferriday.
US 90	US 167 in Lafayette	New Orleans.
US 165	I-10 near Iowa	Arkansas St. Line.
US 167	US 71	Arkansas St. Line.
US 171	US 90 in Lake Charles.	US 80 in Shreveport.
LA 511	LA 3132	US 71 in Shreveport.
LA 3094	US 80	US 71 in Shreveport.
LA 3132	I-20	LA 511 in Shreveport.
LA 3052	LA 24 near Houma	US 90 near Raceland.
LA 3	I-20	I-220 in Bossier City.
LA 13	US 90	I-10 in Crowley.
LA 20	LA 24 near Thibodaux.	LA 1 in Thibodaux.
LA 23	Deer Range	US 90 Bus. in Gretna.
LA 24	US 90 in Houma	LA 20 near Thibodaux.
LA 30	LA 42	LA 73 in Baton Rouge.
LA 39	I-10 in New Orleans	LA 46 near Marrero.
LA 46	LA 39 in New Orleans.	LA 47 in Chalmette.
LA 47	LA 46 in Chalmette	Proposed I-510 in New Orleans.
LA 48	US 90	LA 49 near New Orleans.
US 61	US 90 in New Orleans.	Mississippi St. Line.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
LA 67	LA 408 in Baton Rouge.	Baker.
US 80	LA 72 in Bossier City	I-20 in Minden.
LA 83	US 90 near Baldwin	LA 182 in Baldwin.
US 90 Bus.83.	US 90 near Westwego.	Mississippi River Bridge.
LA 108	LA 27 in Sulphur	I-10 in Maplewood.
LA 137	I-20	US 80 in Rayville.
US 167	LA 14 Bypass in Abbeville.	US 90 in Lafayette.
US 190	Eunice	LA 1032 in Denham Springs.
US 190	I-55	LA 443 in Hammond.
US 190	LA 21 in Covington	LA 22 near Chinchuba.
LA 408	US 61	LA 67 in Baton Rouge.
LA 433	I-10	US 11 in Slidell.
LA 526	LA 3132	I-20 in Shreveport.
LA 3002	I-12	US 190 in Denham Springs.
LA 3021	LA 39	US 90 in New Orleans.
LA 3032	LA 1 in Shreveport	US 71 in Bossier City.
LA 3040	The Houma Tunnel	LA 24 in Houma.
LA 3064	LA 427	LA 73 in Baton Rouge.
LA 3105	US 71	US 80 in Bossier City.
LA 3134	LA 45	LA 45 near Marrero.
LA 3211	US 90	LA 182 near Franklin.
Maine		
Scarboro Connector.	I-295 South Portland	US 1 South Portland.
South Portland Spur.	I-95 South Portland	US 1 South Portland.
US 202	New Hampshire St. Line.	Maine Turnpike.
US 302	New Hampshire St. Line.	I-295 Portland.
Maine Turnpike.	I-95 Portland	I-95 near Gardiner.
US 1	I-95 Yarmouth	I-95 Freeport.
US 1	I-95 Brunswick	Canada Border, Fort Kent.
US 1A	US 1 Stockton Springs.	US 1 Ellsworth.
Maryland		
US 48	West Virginia St. Line	MD 639 at Cumberland.
US 40	MD 639 at Cumberland.	I-70 at Hancock.
US 340	MD 67 at Weverton	US 40 at Frederick.
US 40	US 340 in Frederick	I-70 in Frederick.
US 15	US 340 at Frederick	MD 26 North of Frederick.
MD 4	US 301 at Upper Marlboro.	MD 223 near Mellwood.
US 50	I-95	MD 2 near Annapolis.
MD 3	MD 3 Bus	I-695 Baltimore Beltway.
MD 100	MD 607 at Jacobsville.	MD 3.
MD 10	MD 648 in Glen Burnie.	I-695.
MD 46	Baltimore-Washington International Airport.	MD 295.
MD 295	MD 46	I-95 in Baltimore.
MD 166	US 1 at St. Denis	I-95.
US 29	MD 103	I-70.
MD I-695	I-95 East of Baltimore.	Beginning of Toll Authority at MD 151.
MD 702	I-695 East of Baltimore.	Old Eastern Avenue.
MD 43	West of I-95	US 40.
US 13	Virginia St. Line	Delaware St. Line.
US 301	Virginia St. Line	US 50 At Bowie.
US 301	MD 2 near Annapolis	Delaware St. Line.
MD 4	MD 223	I-95.
US 219	US 40 near Grantsville.	Pennsylvania St. Line.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 220	US 40 near Cumberland.	Pennsylvania St. Line.
US 15	MD 26 near Frederick.	Pennsylvania St. Line near Emmitsburg.
US 1	I-695 near Putty Hill	Pennsylvania St. Line near Rising Sun, MD.
US 50	US 301 near Queenstown.	Ocean City.
US 219	US 48	West Virgins St. Line.
US 50	West Virginia St. Line	West Virginia St. Line.
US 220	US 48	West Virginia St. Line.
US 522	West Virginia St. Line	Pennsylvania St. Line.
MD 2	US 50 Annapolis	I-695 Baltimore.
Massachusetts		
US 7	Connecticut St. Line	Vermont St. Line.
MA 2	New York St. Line	I-91 Greenfield.
MA 2	I-91 near Greenfield	I-95 Lexington.
MA 52	Connecticut St. Line	I-90 Auburn.
MA 146	Rhode Island St. Line	I-290 Worcester.
US 3	I-95 Burlington	New Hampshire St. Line.
US 1	I-93 Boston	I-95 Winona Street, West Peabody.
MA 128	I-95 Peabody	MA 127 Gloucester.
MA 24	Rhode Island St. Line	I-195 West of US 6, Fall River.
MA 24	I-195 Fall River	I-93 Randolph.
MA 25	I-195, I-495, Wareham.	US 6 Wareham.
MA 3	US 6 Sagamore Circle in Bourne.	I-93 Braintree.
US 6	MA 25 Wareham	New Beech, Provincetown.
MA 140	I-195 New Bedford	MA 24 Taunton.
MA 28	MA 28A Falmouth	US 6 Bourne.
Michigan		
MI 1	US 10 Bus and 175 Bus.	Adams Street Detroit.
US 2	Wisconsin St. Line	International Boundary.
MI 3	Clark Street and 175 in Detroit.	MI 29 and I-94.
MI 4	US 24	Orchard Lake Road.
MI 5	Oakland-Wayne Co. Line.	I-96
US 8	US 2 Iron Mountain	Wisconsin St. Line.
US 10	Ludington	Detroit.
US 12	Michigan Indiana St. Line.	Detroit.
MI 13	I-69 Lennon	MI 57.
MI 13	US 10 Bay City	US 23 Standish.
MI 14	I-94	I-275.
MI 15	I-75 Clarkston	MI 25 Bay City.
MI 18	US 10	MI 61 Gladwin.
MI 20	US 31 White Cloud	MI 37 New Era.
MI 20	US 27 Mt. Pleasant	US 10 Midland.
MI 21	I-95 near Grand Rapids.	MI 25 Port Huron.
MI 23	Ohio St. Line	Mackinac Bridge.
MI 24	I-75 Connector near Lake Orion.	MI 21 Lapeer.
MI 24	MI 46	MI 81 Caro.
US 24	Ohio St. Line	I-75 Pontiac.
MI 26	US 45	MI 38.
MI 27	I-75	US 23 Cheboygan.
US 27	Indiana St. Line	I-75 North Higgins Lake.
MI 28	US 2 Wakefield	I-75.
US 31	Indiana St. Line	Mainstee.
US 31	MI 37 Grawn	South Approach of Mackinac Bridge.
MI 32	Hillman	Alpena.
MI 33	Mio	Fairview.
US 33	Indiana St. Line	I-196.
MI 35	US 2 and US 41 Escanaba.	US 2 and US 41.
MI 36	127 Mason	Dansville US 31 and MI 72 Traverse City.
MI 37	I-96 Grand Rapids	MI 46 Kent City.
MI 38	US 45	US 41 Baraga.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
MI 39	Lafayette Street Lincoln Park Detroit.	US 10.
MI 40	Allegan	US 31 Bus. I-196 Holland.
US 41	Wisconsin St. Line	Houghton.
MI 43	MI 37 Hastings	I-69 Lansing.
US 45	Wisconsin St. Line	Rockland.
MI 46	Cedar Springs	Port Sanilac.
MI 47	MI 46	US 10.
MI 50	MI 43 and MI 66 Woodbury.	Eaton Rapids.
MI 50	I-94	I-75.
MI 51	Niles	I-94.
MI 52	Ohio St. Line	US 12.
MI 52	I-94 Chelsea	MI 46.
MI 53	MI 3	MI 25 Port Austin.
MI 55	US 31 Manistee	US 131 Cadillac.
MI 55	US 27	I-75.
MI 55	MI 65	US 23 Tawas City.
MI 56	MI 13 and MI 21	MI 54 Bus.
MI 57	US 131	US 27.
MI 57	MI 52	I-75.
MI 59	US 10 Bus. Pontiac	I-94.
MI 60	MI 62 and Cassopolis	I-69 US 27.
MI 61	MI 115	US 27 Harrison.
MI 61	MI 18 Gladwin	US 23 Standish.
MI 62	Indiana St. Line	US 12.
MI 64	US 2	US 2.
MI 64	MI 28	MI 28.
MI 65	US 23 Omer	MI 55.
MI 65	MI 72	MI 32.
MI 65	Posen	US 23.
MI 66	Indiana St. Line	US 12.
MI 66	Battle Creek	MI 78.
MI 66	MI 43	MI 46.
MI 66	US 131 Mancelona	US 131 Kalkaska.
MI 67	US 41 Trenary	MI 94 Chatham.
MI 68	US 31, US 131 Petoskey.	US 23 Bus. Rogers City.
MI 69	US 2, 141 Crystal Falls.	MI 95 Sagola.
MI 72	I-75	US 23 Harrisville.
MI 76	MI 66	I-69, US 27.
MI 81	MI 24 Caro	MI 53.
MI 82	MI 37	US 131.
MI 83	Frankenmuth	MI 54.
MI 84	I-75	MI 25.
MI 85	I-75	I-75 Detroit.
MI 89	Allegan	US 131.
MI 90	MI 43	MI 43.
MI 94	US 41	MI 28.
MI 95	US 2	US 41, MI 28.
MI 102	I-96, I-695	I-94.
MI 103	Indiana St. Line	US 12.
MI 104	US 31	I-96.
MI 115	US 27	MI 22.
MI 117	US 2	MI 28.
MI 123	I-75	MI 28.
MI 127	Ohio St. Line	US 27.
MI 131	Indiana St. Line	US 31 Petoskey.
MI 141	Wisconsin St. Line	US 41, MI 28.
MI 142	MI 25	MI 53.
MI 205	Indiana St. Line	US 12.
UIS 223	US 23	US 12.
Minnesota		
US 59	I-90	Slayton.
MN 220	US 75 Climax	East Grand Forks.
MN 22	US 14	St. Peter.
US 71	I-94 Sauk Centre	US 10 Wadena.
US 212	South Dakota St. Line.	Minneapolis.
MN 7	Montevideo	Minneapolis.
MN 15	MN 7 Hutchinson	I-94 St. Cloud.
US 12	Benson	I-494 Minneapolis.
MN 9	Benson	Alberta.
MN 28	Brown's Valley	I-94 Sauk Centre.
MN 55	Minneapolis	Glenwood.
US 10	Minneapolis	Moorhead.
MN 65	Minneapolis	MN 23 Mora.
US 61	Duluth	Two Harbors.
MN 24	I-94	US 10 Clear Lake.
MN 59	MN 28 Morris	US 2 Erskine.
MN 29	Glenwood	Wadena.
MN 210	Breckenridge	Staples.
MN 32	US 10	MN 1 Thief River Falls.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
MN 23	US 12 Willmar	I-35.
US 169	Elmore	MN 60.
US 59	Detroit Lakes	US 2.
US 63	Iowa St. Line	Rochester.
US 52	Rochester	Minneapolis.
MN 43	I-90 Wilson	US 61 Winona.
US 14	Rochester	South Dakota St. Line.
MN 99	US 14	US 169.
MN 68	US 14	MN 60 Mankato.
MN 62	US 71	US 59 Fulda.
MN 60	Iowa St. Line	Mankato.
MN 30	St. James	MN 15.
MN 15	MN 30	MN 60.
MN 60	Madelia	Mankato.
US 169	Mankato	I-35.
US 61	I-90	MN 20.
US 75	Odessa	Climax.
US 212	Montevideo	US 169.
MN 7	US 75	Montevideo.
US 71	Iowa St. Line	I-90.
MN 34	Park Rapids	MN 371.
MN 371	Brainard	US 2 Cass Lake.
MN 20	US 52	US 61.
US 2	East Grand Fork	Duluth.
US 53	Duluth	Cook.
US 169	Minneapolis	Princeton.
US 10-MN 18.	US 75 Moorhead	Staples.
US 8	I-35	Wisconsin St. Line.
US 169	Aitkin	US 53.
MN 37	US 169	US 53.
MN 210	Brainard	Aitkin.
MN 33	US 61/I-35	US 53 Independence.
US 75	Iowa St. Line	I-90.
MN 48	I-35	Wisconsin St. Line.
US 218	Iowa St. Line	I-90.

Mississippi

All U.S. and State numbered routes are available. This includes the Federal-Aid Primary System and other routes designated by the State.

Missouri

US 36	Kansas St. Line	Illinois St. Line.
US 40	St. Charles St. Louis Co. Line.	I-55/70 St. Louis.
US 169	I-29 at Kansas City	MO 152 at Kansas City.
MO 725	US 40 at St. Louis	St. Louis Co. Route D.
US 67	Arkansas St. Line	Exit 174 on I-55.
US 61	St. Charles St. Louis County Line.	Iowa St. Line.
US 63	Arkansas St. Line	Iowa St. Line.
US 65	Arkansas St. Line	Iowa St. Line.
US 71	Arkansas St. Line	I-435 Kansas City.
US 71	Exit 53 on I-29	Iowa St. Line.
Alt. US 71	I-44	US 71 Carthage.
US 136	Exit 110 on I-29	US-61 near Keokuk, IA.
US 54	Kansas St. Line	Illinois St. Line.
US 60	US 65 Springfield	I-55/57 near Sikeston.
US 24	I-435 Kansas City	US 65 Waverly.
MO 7	US 71 Harrisonville	MO 13 Clinton.
MO 13	I-44 Springfield	US 24 Lexington.
US 50	Exit 7 I-470 Kansas City.	Exit 247 on I-44.
US 60	Oklahoma St. Line	US 71.
US 67	MO 367	Illinois St. Line.
US 412*	Arkansas St. Line	Exit 19 on I-55.
MO 84	Arkansas St. Line	US 412 near Kennett.
MO 25	US 412 near Kennett	US 60 at Dexter.
MO 5	Arkansas St. Line	US 60.
MO 47	US 50 at Union	MO 100 at Washington
MO 100	MO 47 at Washington.	I-44
MO 367	I-270	US 67.
US 166	Kansas St. Line	I-44.
MO 171	Kansas St. Line at KS 57	US 71 at Webb City.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
Montana		
US 2	Idaho St. Line	North Dakota St. Line.
US 12	Idaho St. Line	North Dakota St. Line.
US 89	Canadian Border	Wyoming St. Line.
US 310	Wyoming St. Line	Laurel.
MT 200	Idaho St. Line	North Dakota St. Line.
US 93	Idaho St. Line	Canadian Border.
US 287	Wyoming St. Line	Choteau.
US 87	Wyoming St. Line	Havre.
US 20	Targhee Pass	West Yellowstone.
MT 87	Raynolds Pass	Three Forks.
US 87	Billings	Roundup.
MT 117	Fort Peck	Nashua.
MT 22	Miles City	Jordon.
MT 15	Conrad	Conrad.
MT 5	Scobey	North Dakota St. Line.
MT 59	Miles City	Wyoming St. Line.
MT 23	Sidney	North Dakota St. Line.
MT 7	Ekalaka	Wibaux.
MT 41	Ennis	Butte.
US 10	North Dakota St. Line	Idaho St. Line.
MT 24	Canadian Border	MT 200.
MT 13	Wolf Point	Canadian Border.
MT 37	Libby	Eureka.
MT 135	St. Regis	Paradise.
MT 28	Plains	Elmo.
US 212	Crow Agency	Wyoming St. Line.
MT 40	Whitefish	Columbia Falls.
TM 39	Lame Deer	Forsyth.
TM 141	Avon	MT 200.
TM 44	US 89	US 15.
US 191	West Yellowstone	MT 19.
MT 43	Idaho St. Line	US 15 Divide.
TM 48	Anaconda	Warm Springs.
TM 47	Hardin	Custer.
TM 41	Dillon	Twin Bridges.
TM 16	Canadian Border	Glendive.
TM 35	Polson	US 2
TM 3	Billings	Lavina.
TM 55	MT 41 Whitehall	Whitehall.
MT 56	MT 200	US 2
TM 64	Big Sky	Mountain Valley.
TM 66	US 191	Fork Belknap.
TM 67	US 2 in Shelby	MT 15.
TM 69	Whitehall	Boulder.
MT 90	I-90 Missoula	Missoula.
MT 72	Wyoming Line	US 310.
MT 73	I-90 Lodge Grass	US 87.
MT 74	I-90	I-90 Wyola.
MT 77	MT 28 Hot Springs	Hot Springs.
MT 78	Red Lodge	Columbus.
MT 80	Fort Benton	Stanford.
MT 81	MT 80	US 191.
MT 82	Somers	MT 35 Big Fork.
MT 83	MT 200	MT 35 Big Fork.
MT 85	US 191 I-90	Belgrade.
MT 86	Bozeman	US 89.
MT 12	I-90 Garrison	Near I-90.
MT 89	Dillon	Near MT 15.
Nebraska		
US 6	Colorado St. Line	Iowa St. Line.
US 20	Wyoming St. Line	Iowa St. Line.
US 26	Wyoming St. Line	NE 61 near Ogallala.
US 30	Wyoming St. Line	East Jct. US 73 at Blair.
US 34	Colorado St. Line	L-13G at Plattsmouth.
US 73	Kansas St. Line	US 77 at Winnebago.
US 75	Kansas St. Line	US 73 near Dawson.
US 77	Kansas St. Line	Iowa St. Line.
US 81	Kansas St. Line	South Dakota St. Line.
US 83	Kansas St. Line	South Dakota St. Line.
US 136	US 6/34 near Edison	NE 67 near Brownville.
US 138	Colorado St. Line	US 30 at Big Spring.
US 183	Kansas St. Line	South Dakota St. Line.
US 275	US 20 Holt Co.	US 73/75 Omaha.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 281	Kansas St. Line	South Dakota St. Line.
US 283	Kansas St. Line	US 30 at Lexington.
US 385	Colorado St. Line	South Dakota St. Line.
NE 2	US 20 at Crawford	US 73/75 at Nebraska City.
NE 4	US 6/34 Harlan Co.	US 73/75 near Dawson.
NE 7	NE 91 at Brewster	US 20 at Ainsworth.
NE 8	NE 14 at Superior	US 73 at Falls City.
NE 9	US 275 near West Point.	US 20 South of Martinsburg.
NE 10	US 136 at Franklin	NE 29 at Loup City.
NE 11	I-80 near Wood River.	US 20 at Atkinson.
NE 12	US 281 Boyd Co.	US 20 Dakota Co.
NE 13	US 81 near Hadar	NE 84 near Center.
NE 14	Kansas St. Line	NE 12 at Niobrara.
NE 15	US 136 at Fairbury	NE 12 Cedar Co.
NE 16	NE 51 Cuming Co.	US 20 near Martinsburg.
NE 19	Colorado St. Line	US 385 near Sidney.
NE 21	NE 23 at Eustis	NE 2/92 at Broken Bow.
NE 22	NE 70 Valley Co.	US 81 near Columbus.
NE 23	NE 61 at Grant	US 6/34 near Holdredge.
NE 27	NE 2 at Ellsworth	South Dakota St. Line.
NE 32	US 275 near West Point.	US 73 at Tekamah.
NE 33	US 6 near Dorchester.	US 77 Lancaster Co.
NE 35	NE 24 at Norfolk	US 77 at Dakota City.
NE 39	NE 92 near Osceola	NE 14 near Albion.
NE 40	NE 70/92 at Arnold	NE 10 near Kearney.
NE 41	Jct. NE 15 Saline Co.	NE 50 near Tecumseh.
NE 43	NE 41 near Adams	NE 2 near Bennett.
NE 44	US 6/34 near Axtell	US 30 at Kearney.
NE 50	NE 8 at Pawnee City	US 275 at Omaha.
NE 51	US 275 at Wisner	US 73 at Decatur.
NE 61	US 34 at Benkleman	South Dakota St. Line.
NE 66	NE 14 near Central City.	US 81 near Stromsburg.
NE 66	NE 50 at Louisville	US 73/75 near Plattsmouth.
NE 67	US 73 near Verdon	US 136 at Brownville.
NE 70	NE 2 at Brokern Bow	US 281 Wheeler Co.
NE 71	Colorado St. Line	NE 2 Box Butte Co.
NE 84	NE 13 near Center	NE 15 at Hartington.
NE 87	US 385 Box Butte Co	South Dakota St. Line.
NE 89	US 83 Red Willow Co.	US 136 near Orleans.
NE 91	NE 2 at Dunning	US 73 at Blair.
NE 92	NE 61 at Arthur	US 275 Douglas Co.
NE 97	US 83 & NE 70 near North Platte.	NE 2 at Mullen.
NE 103	NE 4 near Beatrice	NE 33 near Crete.
NE NE 109	US 77 near Wahoo	US 77 near Inglewood.

State has also designated all State FAS highways.
FHWA has not designated any additional mileage on the FAP for Nebraska.

Nevada

US 395	California St. Line	US 50 Stewart.
US 395	US 50 Carson City	California St. Line.
US 50	California St. Line	Utah St. Line.
US 95	California St. Line	I-80.
US 95	I-80	Oregon St. Line.
US 6	California St. Line	US 95 Coaldale.
US 6	US 95 Tonopah	US 50 Ely.
US 93	Jct. FAU 501 Boulder City.	US 95.
US 93	I-15	US 50.
US 93	US 50	Idaho St. Line.
US 95 Alt	US 95 Scharz	I-80.
US 50 Alt	I-80	US 50.
US 93 Alt	US 93	I-80 Wendover.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
New Hampshire		
US 3	Massachusetts St. Line.	101 A Nashua.
Everett Turnpike.	101 A Nashua	I-293 Bedford.
NH 101	NH 9 Keene	I-293 Bedford.
NH 9	Vermont St. Line	I-89 Hopkinton.
US 202	Spaulding Turnpike near Rochester.	Maine St. Line.
NH 101	I-93 Manchester	NH 51 Exeter.
NH 51	NH 101 Exeter	US 1 Hampton.
Spaulding Turnpike.	US 4 Dover	US 202 near Rochester.
US 4	I-393 Horse Corner	I-95 Portmouth.
NH 16	US 202 Rochester	US 302 Conway.
US 3	I-93 near Franconia Notch.	Canada Border.
US 302	US 3 Twin Mountain	Maine Border.
NH 18	Vermont St. Line	I-93 Littleton.
New Jersey		
US 9	Lewes Ferry	NJ 18 Sayre Woods South.
NJ 83	US 9 Clermont	NJ 47 South Dennis.
NJ 47	NJ 83 South Dennis	NJ 55 Port Elizabeth.
NJ 55	NJ 47 Port Elizabeth	US 40 Malaga.
US 40	NJ 55 Malaga	NJ 47 Malaga.
NJ 47	US 40 Malaga	I-295 Westville Grove.
Atlantic City Expressway	Baltic Avenue	NJ 42 Turnersville.
	Atlantic City	
NJ 42	Atlantic City Expressway at NJ 168 Washington.	I-295 Bellmawr.
US 322	Pennsylvania St. Line	US 130 Bridgeport.
US 130	US 322 Bridgeport	I-295 Logan Turnpike.
US 130	NJ 44 West Deptford	I-295 West Deptford.
New Jersey Turnpike.	I-295 Deepwater	I-95 Exit 10 Raritan.
New Jersey Turnpike.	Pennsylvania St. Line	Exit 6 Mansfield.
NJ 38	NJ 34 Wall	NJ 35 Belmar.
NJ 18	US 1 New Brunswick	NJ 36 Eatontown.
US 206	US 1 Trenton	US 130 Bordentown.
US 1	Pennsylvania St. Line	I-95 Edison.
US 206	I-295 Lawrenceville	I-287 Rariton.
NJ 440	I-95 Edison	New York St. Line at Outer Bridge.
US 22	Pennsylvania St. Line Phillipsburg.	I-78 Greenwich.
US 22	US 206 Rariton	I-78 Newark.
US 202	Pennsylvania St. Line	US 206 Rariton.
NJ 495	I-95 Secaucus	I-495 Weehawken.
NJ 3	US 1 North Bergen	US 46 Clifton.
US 46	I-80 at NJ 23 Wayne	NJ 3 Clifton.
NJ 17	I-80 Hackensack	New York St. Line.
NJ 15	I-80 Dover	US 206 Ross Corner.
US 206	NJ 15 Ross Corner	Pennsylvania St. Line.
New Mexico		
US 56	I-25 Springer	Oklahoma St. Line.
US 62	US 285 Carlsbad	Texas St. Line.
US 70	I-10 Las Cruces	US 84 Clovis.
US 84	I-40 Santa Rosa	Texas St. Line.
US 87	US 56 Clayton	Texas St. Line.
US 285	Colorado St. Line	Texas St. Line.
US 550	US 666 Shiprock	Colorado St. Line.
US 666	I-40 Gallup	Colorado St. Line.
US 60	Arizona St. Line	US 25 Socorro.
US 84	I-40	Colorado St. Line.
US 70	Lordsburg	Arizona St. Line
US 80	Arizona St. Line	US 10.
NM 504	Arizona St. Line	Shiprock.
US 160	Arizona St. Line	Colorado St. Line.
New York		
NY 430	Pennsylvania St. Line	NY 426 Findley Lake.
NY 426	NY 430 Findley Lake	NY 17 Findley Lake.
NY 17	NY 426 Findley Lake	I-87 Thruway Exit 16.
US 219	Pennsylvania St. Line	NY 17 Carrollton.
US 219	NY 17 Kill Buck	I-90 Thruway Exit 55.
NY 400	I-90 Thruway Exit 54	NY 16 South Wales.
US Alt. 20	NY 400 E. Aurora	I-390 Geneso.
NY 5	I-190 Buffalo	NY 75.
NY 198	I-190 Thruway Exit N11.	NY 33 Buffalo.
NY 33	Michigan Avenue Buffalo.	NY 78 Williamsville.
NY 78	NY 33 Williamsville	I-90 Williamsville.
NY 179	NY 5 Windom	I-90 Windom.
NY 75	NY 5 Mount Vernon	US 20 Mount Vernon.
Walden Avenue.	I-90 Thruway Exit 52	NY 277.
NY 277	Near NY 130	Walden Avenue.
US 20	Pennsylvania St. Line	I-87 Connector Albany.
NY 266	Buffalo City Limit	NY 325 Tonawanda.
NY 325	NY 266 Tonawanda	Kenmore Avenue Tonawanda.
NY 104	I-190 near Niagara Falls.	I-81 Maple View.
NY 390	I-490 Rochester	NY 18 North Greece.
NY 590	I-490 Rochester	NY 104 Irondequoit.
Inner Loop	I-490 Rochester	I-490 Rochester.
NY 15	Commerce Drive Rochester.	NY 252 Rochester.
NY 15A	NY 252 Rochester	I-390 Rochester.
NY 204	NY 33A Gates	I-490 Gates.
NY 252	NY 15 Rochester	NY 15A Rochester.
NY 441	I-490 East Rochester	NY 253 East Rochester.
NY 690	I-90 Lakeland	NY 370 Baldwinsville.
NY 481	I-81 North Syracuse	NY 104 Oswego
NY 695	NY 5 Fairmont	I-690 Solvay.
NY 5	Maple Avenue Camillus.	West Genessee Fairmont.
NY 298	I-690 Syracuse	I-81 Syracuse.
US 15	Pennsylvania St. Line	NY 17 Corning.
NY 13	NY 17 Elmire	I-81 Cortland.
NY 7	I-81 Binghamton	I-88 Port Dickinson.
NY 12	I-81 Glen Castle	I-790 Utica.
NY 12	I-790 near I-90 Utica	US 11 Watertown.
NY 12F	US 11 Watertown	I-81 Watertown.
NY 8	County Road 9 Sauquoit.	NY 12 Utica.
NY 26	NY 365 Rome	NY 46 Rome.
NY 365	I-90 Thruway Exit 33	NY 49 Rome.
NY 49	NY 365 Rome	NY 12 Utica.
North Genessee. Arterial	NY 55 Utica	NY 5 Utica.
US 11	NY 12 Watertown	Canada Border.
NY 56	US 11 Potsdam	NY 37 Massena.
NY 37	NY 56 Massena	US 11 Malone.
Spur	NY 37 Rooseveltown	Canada Border.
US 2	US 11 Rouses Point	Vermont St. Line.
NY 254	I-87 Glen Falls	US 4 Hudson Falls.
US 4	NY 254 Hudson Falls	Vermont St. Line.
NY 7	I-787 Troy	Vermont St. Line.
NY 278	NY 7 Brunswick Center.	NY 2 Clums Corner.
NY 2	NY 278 Clums Corner.	Massachusetts St. Line.
Berkshire Thruway.	I-87 Thruway Exit 21A.	I-90 Thruway Exit B1.
US 9	Near NY 254 Glens Falls.	Near County Road 34 Glens Falls.
NY 7	I-890 Schenectady	West City Line of Watervillet.
NY 5	NY 7 Schenectady	North City Line of Albany.
Wolf Road	NY 5 at I-87 Colonie	I-87 At NY 155 Colonie.
NY 440	New Jersey St. Line	I-278 Staten Island Expressway.
NY 495	I-278 Brooklyn-Queens Expressway.	I-678 Van Wyuk Expressway.
NY 495	I-295 Clearview Expressway.	NY 25 Riverhead Suffolk.
NY 17	New Jersey St. Line	I-87 Suffern.
North Carolina		
US 19	US 64 near Ranger	US 19W Yancey County.
US 129	Georgia St. Line	US 64 near Ranger.
US 226		
US 23	Mars Hill	Tennessee St. Line.
NC 69	Georgia St. Line	US 64 near Hayesville.
US 441	Georgia St. Line	US 64 near Franklin.
US 25	South Carolina St. Line.	I-26 near East Flat Rock.
US 221	South Carolina St. Line.	NC 226 near Woodlawn.
US 1	South Carolina St. Line.	I-85 near Middleburg.
US 15	US 401 near Laurinburg.	US 1 Aberdeen.
US 15	US 1 Northview	US 64 Pittsboro.
US 401	South Carolina St. Line.	I-40 Raleigh.
US 701	South Carolina St. Line.	US 76 near Whiteville.
US 17	South Carolina St. Line.	Virginia St. Line.
US 421	Kure Beach	I-95 Dunn.
US 421	US 1 Sanford	US 64 Siler City.
US 421	I-40 Winston-Salem	Wilkesboro.
NC 24	US 70 Mansfield	US 701 Clinton.
NC 24	I-95 Bus.	Spout Springs.
US 70	Beaufort	I-95 Durham.
US 64	Tennessee St. Line	US 23 Franklin.
US 64	I-85 Lexington	US 17 Williamston.
US 258	NC 24 near Richlands.	US 64 Tarboro.
US 301	I-95 near Kenly	US 158 near Weldon.
US 76	South Carolina St. Line.	US 17 near Leland.
US 601	South Carolina St. Line.	US 74 near Monroe.
US 74	US 221 Rutherfordton.	US 17 near Wilmington.
US 220	US 74 near Rockingham.	Virginia St. Line near Price.
NC 49	I-85 Charlotte	US 52 Richfield.
US 25	South Carolina St. Line.	I-26.
NC 18	I-40 near Morgantown.	US 321 near Lenoir.
US 321	South Carolina St. Line.	I-85 near Gastonia.
US 321	I-40 near Hickory	NC 90 near Lenoir.
NC 16	I-40 near Conover	US 421 near Wilkesboro.
US 52	NC 24/27 Albemarle	Virginia St. Line.
NC 87	NC 24/27 Spout Springs.	US 421 Sanford.
NC 226	US 221 near Woodlawn.	US 19E near Spruce Pine.
US 158	I-40 Winston-Salem	Virginia St. Line.
North Dakota		
US 85	South Dakota St. Line.	Canadian Border.
US 83	South Dakota St. Line.	I-84 Jct.
US 83	I-94 Jct./Bismark	Canadian Border.
US 281	South Dakota St. Line.	I-94 Jct./Jamestown.
US 52/281	I-94 Jct./Jamestown	Carrington.
US 281	Carrington	Canadian Border.
US 81	I-29 Jct./Manvel	I-29 Jct./Joliette.
US 2	Montana Border	US 85 Jct./Williston.
US 2	US-85 Jct.	Minnesota St. Line.
US 52	Carrington	US 2 Jct./Minot.
US 52	US 2 Jct./Burlington	Canadian Border.
US 12	Montana Border	South Dakota St. Line.
US 10	I-94 Jct.	Minnesota St. Line
ND 68	Montana St. Line	Minnesota St. Line.
ND 13	I-29 Mooreton	Minnesota St. Line.
Ohio		
All public highways, except where posted or within certain municipalities where there are restrictions.		
Oklahoma		
US 56	New Mexico St. Line	Kansas St. Line.
US 54	Texas St. Line	Kansas St. Line.
US 59	US 270 Heavener	I-44 Afton.
US 60	Texas St. Line	US 283 Ellis Co.
US 60	US 81 Pond Creek	US 59 Ottawa Co.
US 62	Texas St. Line	US 281 Lawton.
US 64	US 56 Boise City	US 69 Muskogee.
US 62	US 69 Muskogee	Arkansas St. Line.
US 70	US 81 Waurika	Arkansas St. Line.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 81	Texas St. Line	OK 11 Medford
US 83	OK 3 Bryan's Corner	Kansas St. Line.
US 75	Texas St. Line	Kansas St. Line.
US 169	I-244 Tulsa	US 60 Nowata.
US 127	US 70 Dixon	US 60 Ponca City.
US 69	US 75 Otoka	Kansas St. Line.
US 77	OK 11 Kildare	Kansas St. Line.
US 183	Texas St. Line	US 270 Seiling.
US 271	US 270 Wister	US 59 Poteau.
US 270	US 177 Tecumseh	Arkansas St. Line.
US 259	Texas St. Line	US 270 Leflore Co.
US 281	OH 5 Walters	Kansas St. Line.
US 271	Clayton	Arkansas St. Line.
US 283	Texas St. Line	Kansas St. Line.
US 287	Texas St. Line	Colorado St. Line.
OK 3	US 54 Guymon	Arkansas St. Line.
OK 15	US-283 Shattuck	US-64 Enid.
OK 33	US 183 near Custer City.	US 270 Kansas St. Line.
OK 34	I-40 Elk City	US 64 Harper Co.
OK 8	OK 58 Fairview	US 64 Alfalfa Co.
OK 11	US 64 Cherokee	OK 20 Skiatook.
OK 45	US 281 Woods Co.	OK 8 Alfalfa Co.
OK 51A	US 270 Watonga	OK 58 Major Co.
OK 53	OK 76 Fox	I-35 Springer.
OK 58	OK 51 A	OK 58 Fairview.
OK 5	US 183 Frederick	OK 53 Walters.
OK 67	USA 75 Glenpool	US 64 Bixby.
OK 29	US 81 Marlow	I-35 near Wynnewood.
OK 76	OK 7 Ratliff City	OK 53 Fox.
OK 7	I-35 near Davis	OH 1 Johnston Co.
OK 7	US 281 Lawton	OK 76 Ratliff City.
OK 6	US 283 Greer Co.	I-40 Elk City.
OK 9	OK 44 Lone Wolf	US 177 Tecumseh.
OK 9	US 69 Pittsburg Co.	US 59 LeFlore Co.
OK 39	OK 9 Tablier	OK 3W Asher.
OK 44	US 283 Greer Co.	9 Lone Wolf.
OK 53	I-44 Walters	US 81 Comanche.
OK 36	OK 5 Tillman Co.	US 281 near Lawton.
OK 18	OK 51 Paine Co.	US 60 Osage Co.
OK 20	OK 7 Johnston Co.	US 270 Calvin.
OK 48	I-44 Bristow	US 64 Pawnee Co.
OK 51	I-35 Paine Co.	US 62 Tahlequah.
OK 16	US 75 Preston	US 64 Jamesville.
OK 10	OK 2 Welch	US 59 Miami.
OK 2	US 60 Vinita	OK 10 Welch.
OK 2	US 271 Clayton	I-40 Warner.
OK 19	I-35 Paul's Valley	OK 3W Ada.
OK 99	US 70 Madill	OK 11 Osage Co.
OK 199	I-35 Ardmore	US 70 Oakland.
Cimarron Turnpike.	I-35 Noble Co.	US 64 at OK 48.
Muskogee Turnpike.	OK 51 Coweta	I-40 Webers Falls.
Indian Nation Turnpike.	Texas St. Line	I-40 Henryetta.

Oregon

OR 99E	Portland	Salem.
OR 99W	Portland	Eugene.
US 730	I-84 Boardman	Washington St. Line.
US 30	Portland	Astoria.
US 97	Washington St Line	California St. Line.
US 20	Bend	Idaho St. Line.
US 20	Sisters	US 97 near Bend.
US 20	Newport	Sweet Home.
OR 11	Washington St. Line	Pendleton.
US 101	Washington St. Line	Cannon Beach Jct.
US 101	OR 18 at Otis	Newport.
US 101	Florence	Port Orford.
US 101	Gold Beach	California St. Line.
OR 126	Florence	Prineville.
OR 58	Eugene	US 97 near Chemult.
OR 31	La Pine	US 395 Valley Falls.
OR 62	Medford	Trail.
US 199	Grants Pass	California St. Line.
US 26	Cannon Beach Jct.	US 97 near Madras.
US 26	US 97 Metolius	Mitchell.
US 395	Pendleton	Long Creek.
US 395	John Day	Burns.
US 395	Riley	California St. Line.
OR 8	Beaverton	Forest Grove.
OR 22	OR 18 Near Willamina.	Salem.
OR 42	Coos Bay	Coquille.
OR 6	Tillamook	US 26 near Banks.
OR 18	US 101 Otis	Dayton.
OR 10	Portland	Beverton.
US 197	I-84 Seufort	OR 216 Maupin.
OR 216	US 26 Warm Springs Jct.	Maupin.
OR 36	Reedsport	Anlsuf.
OR 140	Klamath Falls	OR 39.
OR 39	OR 140	California St. Line.
US 99E	Albany	Junction City.
US 30 Bus.	OR. 99E	US 30 By pass in Portland.
OR 99	Grants Pass	I-5.
US 30	North Powder	Baker.
US 30	In City of Pendleton	
OR 214	Woodburn	Silverton.
OR 217	US 26	I-5.
OR 22	Salem	Santiam Jct.
OR 223	Dallas	Rickreall.
OR 224	OR 99E	Clackamas.
OR 99	Central Point	Ashland.
OR 34	Corvallis	Lebanon.
OR 138	Elkton	I-5.
OR 99	OR 42	I-5.
OR 99	OR 38	I-5.
US 30	In City of Cascade Lock.	
OR 206	Wasco	Heppner.
OR 207	Cold Springs Jct.	Kinzua Road.
OR 78	Burns	US 95.

Note.—Qualified but unmarked routes have not been listed. In addition extensive partially qualifying routes have identified by the State. Full information on Oregon's truck route system is available from the Oregon Division of Highways.

Pennsylvania

US 1	Maryland St. Line	New Jersey St. Line.
US 30	I-70 Breezewood	I-76 Philadelphia.
PA 9	US 202 Westchester	I-76 Philadelphia.
US 202	PA 309 Lansdale	New Jersey St. Line.
US 222	PA 283 Lancaster	PA 9 Allentown.
US 322	I-83 Harrisburg	US 422 Hummelstown.
US 422	US 322 Hummelstown.	I-276 Norristown.
PA 283	I-83 Harrisburg	US 30 Lancaster.
US 522	I-76 Fort Littleton	US 15 Selinsgrove.
US 220	Maryland St. Line	NY 17 at New York St. Border.
US 22	West Virginia St. Line	PA 60 Pittsburgh.
US 22	I-76 Pittsburgh	US 522 Mt. Union.
US 422	PA 60 New Castle	US 22 Edensburg.
PA 60	I-80 West Middlesex	US 422 New Castle.
PA 60	PA 51 Pattarson Heights.	US 22 Pittsburgh.
US 6N	I-90 West Springfield	US 6 Mill Village.
US 6	US 6N Mill Village	US 206 NJ Border.
PA 430	I-90 Erie	New York St. Line.
PA 8	I-80 Barkeyville	US 322 Franklin.
US 62	US 322 Franklin	US 6 Youngsville.
PA 28	I-376 Pittsburgh	US 422 Kittanning.
US 119	West Virginia St. Line	US 30 Greensburg.
US 30	I-76 Irwin	US 119 Greensburg.
PA 51	US 119 UnionTown	I-279 Pittsburgh.
US 219	Maryland St. Line	New York St. Line.
PA 56	US 22 Armagh	US 219 Geistown.
US 15	Maryland St. Line	New York St. Line.
PA 147	US 220 Pennsdale	I-80 Milton.
PA 9	I-81 Scranton	I-76 Philadelphia.
PA 33	I-80 Stroudsburg	US 22 Easton.
PA 309	I-276 Philadelphia	I-78 Allentown.
US 202	Delaware St. Line	I-76 King of Prussia.
US 6/19	I-79 Meadville	Northerly 7 miles.
Harrisburg Expressway.	I-83	US 11.
PA 61	US 222	I-78.
Pennsylvania Turnpike.	I-95 Bristol	New Jersey St. Line.
US 322	I-95 Chester	New Jersey St. Line.

Rhode Island

RI 78	Connecticut St. Line	US 1 near Westerly.
US 1	RI 78 near Westerly	RI 4 Allenton.
RI 4	US 1 Allenton	I-95 Warwick.
RI 114	RI 138 Middletown	RI 24 Portsmouth.
RI 24	RI 114 Portsmouth	Massachusetts St. Line.
RI 37	I-295 Cranston	I-95 near Pawtuxet.
RI 195	I-295 Johnston	RI 10 Providence.
RI 10	RI 195 Providence	I-95 Cranston.
US 6	Connecticut St. Line	I-295 Johnston.
RI 146	I-95 Providence	Massachusetts St. Line.
RI 138	RI 238 Newport	RI 114 Middletown.

South Carolina

US 78	Georgia St. Line	I26 near Charleston.
US 378	Georgia St. Line	US 502 Conway.
SC 72	Georgia St. Line	I-77 Rockhill.
US 123	Georgia St. Line	US 25 Greenville.
US 76	US 52 Florence	North Carolina St. Line.
US 25	North Carolina St. Line.	Georgia St. Line.
SC 18	North Carolina St. Line.	US 176 Jonesville.
US 176	SC 18 Jonesville	SC 72 Whitmire.
SC 121	SC 72 Whitmire	US 251 Trenton.
US 321	North Carolina St. Line.	I-95 near Savannah.
US 601	North Carolina St. Line.	SC 9 Pageland.
SC 151	SC 9 Pageland	US 52 Darlington.
US 1	North Carolina St. Line.	I-20 Camden.
US 52	US 1 near Cheraw	US 17 Charleston.
US 17	I-95 near Ridgeland	North Carolina St. Line.
US 501	US 76 Marion	US 17 Myrtle Beach.
US 21	US 7 Gardens Corner.	SC 170 Beaufort.
US 276	I-85 Greenville	I-26 near Laurens.
SC 557	US 321 Clover	North Carolina St. Line.
US 521	I-20 Camden	North Carolina St. Line.
US 401	US 52 Society Hill	North Carolina St. Line.
US 301	Georgia St. Line	US 321 Ulmer.
US 76	Georgia St. Line	US 123.
SC 277	I-77 near Columbia	US 321 near Columbia.

South Dakota

All roads in the State are designated. This includes all Federal-aid Primary Routes as well as other routes designated by the State.

Tennessee

Briley Pkwy	I-40 near Nashville	I-65 near Nashville.
TN 137, US 23.	TN 67 Johnson City	TN 1 Kingsport.
US 51	Near Memphis	Purchase Pkwy. Kentucky St. Line.
US 45 Bypass.	Mississippi St. Line	Near Jackson.
US 45/45W Bypass.	Near Jackson	Union City near TN 22.
US 79	Memphis near I-40	Guthrie at US 41 Kentucky St. Line.
US 641	I-40 near Natchez Trace State Park.	Kentucky St. Line near TN 140.
US 231	Alabama St. Line near Fayetteville.	Kentucky St. Line near TN 52.
US 127	Red Bank near Chattanooga.	Static at Kentucky St. Line.
US 27	Walden	Kentucky St. Line.
US 25E	Witt I-40	Harrogate at Virginia St. Line.
US 70 Alt.	Atwood at US 79	Huntingdon at TN 22.
US 70	Huntingdon at TN 22	Dickson.
US 70	Sparta at TN 111	Crossville at US 127.
US 70S	Murfreesboro at US 231	Sparta at TN 111.
US 64/41	Memphis at TN 15	Tracy City.
US 64	Cleveland near I-40	Near Bellfown at North Carolina St. Line.
US 43	Near St. Joseph at Alabama St. Line.	Lawrenceburg at US 64.
US 72	Alabama St. Line	I-24.
TN 153	I-75	US 27 at Walden.
TN 96	US 70	I-40.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 70	Briley Pkwy	Sparta.
US 127	Crossville	I-40.
Texas		
US 59	New Mexico St. Line	Arkansas St. Line.
US 60	New Mexico St. Line	Oklahoma St. Line.
US 62	New Mexico St. Line	Lubbock.
US 67	Jct. 277 San Angelo	Jct. 84 Santa Ana.
US 69	Los Angeles St. Line	I-20 Tyler.
US 75	Jct. I-30 Dallas	Oklahoma St. Line.
US 77	Mexico Border	I-35 Waco.
US 82	Lubbock	Jct. 277 Seymour.
US 82	Jct. 287 near Wichita Falls.	US 75 Sherman.
US 83	Jct. 77 near Harlinger	Jct. I-35 Laredo.
US 83	Jct. 67 Ballinger	I-20 Abilene.
US 84	New Mexico St. Line	I-20 near Sweetwater.
US 84	US 67 Santa Ana	I-45 Waco.
US 87	Jct. 277 San Angelo	Lubbock.
US 87	I-40 Amarillo	New Mexico St. Line.
US 90	Mexico Border	I-35 San Antonio.
US 183	I-35 Austin	US 84 Goldthwaite.
US 259	US 59 Nacogdoches	Oklahoma St. Line.
US 277	Mexico Border	US 67 San Angelo.
US 277	I-20 Abilene	Oklahoma St. Line.
US 281	US 83 Mc Allen	I-37 near Three Rivers.
US 290	I-10 near Mountain Home.	I-610 Houston.
US 287	I-40 Amarillo	I-35 Ft. Worth.
US 385	I-10 Ft. Stockton	US 62 Seminole.
US 285	New Mexico St. Line	I-20 Pecos.
TX 19	Sulphur Springs	Oklahoma St. Line.
US 81	Bowie	Oklahoma St. Line.
US 283	Vernon	Oklahoma St. Line.
US 83	US 287	US 60.
US 62	US 83	Oklahoma St. Line.
US 287	Dumas	Oklahoma St. Line.
US 54	Dalhart	Texhoma.
Utah		
US 6	I-15 near Spanish Fork.	I-70 near Green River Colorado St. Line.
US 40	I-80 Silver Creek Jct.	near Dinosaues, CO.
US 89	I-70 Salina Interchange.	I-15 near Nephi Interchange.
US 91	I-15 Perry-Brigham Interchange.	Idaho St. Line near Franklin, Idaho.
UT 201	I-80 Lake Point Interchange.	I-15 at 21st near Interchange in Salt Lake City.
US 50	Nevada St. Line near Salina.	I-70.
US 666	Monticello	Colorado St. Line.
US 163	Arizona St. Line	I-70.
US 89	Arizona St. Line	Sevier.
Vermont		
VT 9	New York St. Line	New Hampshire St. Line.
US 7	Massahusetts St. Line.	I-89 Burlington.
US 4	New York St. Line	I-89 White River Jct.
US 2	I-89 Montpelier	I-93 St. Johsbury.
US 2	New York St. Line	VT 78 Alburg.
VT 78	US 2 Alburg	I-89 Swanton.
Virginia		
Alt. US 58	US 23 Norton	US 19 Hamsonville.
US 460	Raven	US 19 Cedar Bluff.
US 460	West Virginia St. Line	I-81 Christiansburg.

[FR Doc. 83-8879 Filed 4-4-83; 8:45 am]

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APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
VA 100	Bane	US 460 Pearisburg.
US 58	US 220 Martinsville	I64 Chesapeake.
VA 44	I-64 Norfolk	US 60 Virginia Beach.
US 460	I-581 Roanoke	I-85 Petersburg.
US 360	US 58 VA 304	VA 150 Richmond.
VA 304	US 360	US 58 South Boston.
US 360	I-295 Richmond	US 17.
VA 195	I-195 Richmond	I-95 Richmond.
VA 146	VA 76 Richmond	VA 175 Richmond.
VA 76	I-195 Richmond	VA 150 Richmond.
VA 150	VA 76 Richmond	I-95 Richmond.
US 211	I-81 New Market	US 29 Warrenton.
VA 7	I-81 Winchester	I-395 Arlington.
US 23	Tennessee St. Line	Kentucky St. Line.
US 19	I-81 Abingdon	West Virginia St. Line Bluefield.
US 220	North Carolina St. Line near Martinsville.	West Virginia St. Line. US 581 Roanoke
US 29	North Carolina St. Line near Danville.	US 50 Fairfax.
US 50	US 29 Fairfax	VA 7 Falls Church.
US 17	I-64 Newport News	US 360 Breys Fork.
US 17	US 360 Tappahanneck.	I-95 near Fredericksburg.
US 17	I-95 near Fredericksburg.	US 29 Opal.
VA 207	I-95 Carmel Church	US 301 Bowling Green.
US 301	VA 207 Bowling Green.	Maryland St. Line.
VA 168	VA 165 Chesapeake	I-64 Chesapeake.
US 13	I-64 Norfolk	Bay Bridge Tunnel.
US 13	Bay Bridge Tunnel	Maryland St. Line.
US 258	North Carolina St. Line.	US 58 Franklin.
US 52	North Carolina St. Line.	I-77 Fancy Gap.
US 17	North Carolina St. Line.	US 13 Chesapeake.
US 50	West Virginia St. Line	I-81 Winchester.
US 522	Winchester	West Virginia St. Line.
VA 340	VA 7 Winchester	Maryland St. Line.
Washington		
All US and state numbered routes are designated. This includes all Federal-aid primary routes and additional routes designated by the State.		
West Virginia		
US 19	Jct. I-77 Bradley	Jct. I-79 Gassaway.
US 22	Ohio St. Line	Pennsylvania St. Line.
US 48	I-79 Morgantown	Maryland St. Line.
US 50	I-77 Parkersburg	Virginia St. Line.
US 60	I-77 Charleston	I-64 Sam Black Church.
US 119	Kentucky St. Line	I-77 Charleston.
US 219	US 460 Rich Creek	Maryland St.Line.
US 220	Virginia St. Line	Maryland St. Line.
US 250	I-70 Wheeling	Virginia St. Line.
US 522	Virginia St. Line	Maryland St. Line.
US 460	US 52 Bluefield	219 Rich Creek.
US 119	US 48 Morgantown	Pennsylvania St. Line.
US 340	Virginia St. Line	Maryland St. Line.
Wisconsin		
US 18	Prairie du Chien	Madison.
WI 21	I-90/94	Oshkosh.
US 51	Portage	Ironwood.
WI 29	I-94/90	Greenbay.
US 8	St. Croix Falls	Michigan St. Line.

APPENDIX—LIST OF OTHER QUALIFIED ROUTES—Continued

Posted route No.	From	To
US 14	Madison	La Crosse.
US 151/61	Dubuque	Manitowoc.
WI 69	Illinois Border	US 18.
US 12	Illinois St. Line	Monona.
US 151	I-90/94	Manitowoc.
WI 16	I-94	Portage.
WI 11	WI 15 Elkhorn	WI 31.
US 61	Dickeyville	Iowa St. Line.
US 63	Minnesota Border	US 2 near Ashland.
WI 13	WI 21 near Cottonville.	Ashland.
US 2	Superior	Ironwood.
US 45	US 10 near Appleton	Michigan Border.
US 10	Prescott	I-43 near Maintowoc.
US 141	Abrams	Pembine.
US 41	Abrams 107 St. Milwaukee.	Marinette.
WI 57	Green Bay	Sturgeon Bay.
WI 42	Manitowoc	WI 57.
US 53	La Crosse	Superior.
WI 27	WI 82 near Rising Sun.	Ojibwa.
WI 82	Minnesota St. Line	WI 27
WI 70	Minnesota St. Line	Florence.
WI 32	WI 29	Laona.
WI 58	US 14	Mauston.
WI 80	I-94	Pittsville.
WI 11	Dubuque	WI 15 Delavan.
WI 15	I-90 Beloit	US 45 Greenfield.
WI 23	WI 32 near Sheboygan Falls.	Taylor Drive Sheboygan.
WI 30	Madison	I-90/94 near Madison.
US 41	National Avenue Milwaukee.	Garfield Avenue Milwaukee.
US 45	WI 15-100	I-894 Greenfield.
US 45	I-94-894	WI 175 Milwaukee.
WI 78	I-90-94	WI 51 Columbia Co.
WI 119	I-94	WI 38 Milwaukee.
WI 145	Broadway St. Milwaukee.	Milwaukee Waukesha Co. Line.
WI 172	US 41	County Road X Green Bay.
US 61	Illinois St. Line	Northerly.
WI 20	I-94	WI 31 Racine Co.
WI 31	WI 11	WI 20 Racine Co.
WI 50	I-94 US 41	45th Avenue Kenosha.
WI 124	US 53	WI 29 near Chippewa Falls.
US 141	US 8	Michigan St. Line.
US 141/US 2.	Iron Mountain	Ironwood.
US 14	Madison	Janesville.
US 12	WI 23	Wisconsin Dells.
WI 77	Mellen	Hurley.
WI 17	Eagle River	Rhinelander.
WI 139	US 8	WI 70
WI 35	I-94 Hudson	Minnesota St. Line.
US 12	WI 27 Augusta	I-94.
WI 34	Wisconsin Rapids	US 10.
WI 54	Wisconsin Rapids	US 51 Clover.
US 45	US 10	Illinois St. Line.
WI 26	US 155 Waupon	US 41 Oshkosh
WI 26	I-94	US 16.
WI 82	Mauston	I-94.
Wyoming		
All US and State numbered routes are designated with the exception of US 89/287 and US 212 in Yellowstone National Park. This includes all Federal-aid Primary Routes under the jurisdiction of the State of Wyoming as well as other routes designated by the State.		

*Old maps shown as MO 25 from AR to MO 84 and MO 84 to I-55.

Reader Aids

Federal Register

Vol. 48, No. 66

Tuesday, April 5, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13921-14346.....1
14347-14560.....4
14561-14852.....5

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
4707 (Amended by EO 12413).....13921
4768 (Amended by EO 12413).....13921
5037.....14561
Executive Orders:
December 13, 1898 (Revoked in part by PLO 6366).....14597
11888 (Amended by EO 12413).....13921
12389 (Amended by EO 12413).....13921
12413.....13921

5 CFR

315.....13951
553.....13952
890.....14563
1204.....13954
1205.....13954
Proposed Rules:
351.....13987

7 CFR

20.....13954
52.....14563
272.....13955
273.....13955
418.....14563
718.....13958
906.....13963
910.....13964
1033.....14571
Proposed Rules:
319.....13987
810.....14601
1004.....14604
1007.....14604
1011.....14604
1013.....14613
1046.....14604
1120.....14613
1126.....14613
1132.....14613
1138.....14613

8 CFR

103.....14572
214.....14575
238.....14593
248.....14575
332b.....14594
Proposed Rules:
103.....14631
214.....14631

9 CFR

92.....13965

10 CFR

50.....13966
Proposed Rules:
50.....13987
1017.....13988

11 CFR

106.....14347
9031.....14347
9032.....14347
9033.....14347
9034.....14347
9035.....14347
9036.....14347
9037.....14347
9038.....14347
9039.....14347
Proposed Rules:
9001.....14532
9002.....14532
9003.....14532
9004.....14532
9005.....14532
9006.....14532
9007.....14532
9007a.....14532

12 CFR

Proposed Rules:
Ch. II.....13993
601.....13999
615.....14594

14 CFR

39.....14347-14357
73.....14358
97.....14359
Proposed Rules:
39.....14383-14386
71.....14388
320.....14636

16 CFR

13.....13970-13972
305.....13972, 13973
Proposed Rules:
13.....14389

18 CFR

2.....14361

17 CFR

211.....14595

19 CFR

10.....14595
143.....14595
Proposed Rules:
177.....14000

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

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 April 4, 1983

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Code of Federal Regulations

Revised as of January 1, 1983

Quantity	Volume	Price	Amount
_____	Title 7—Agriculture (Parts 46 to 51)	$7.50	$_____
_____	Title 7—Agriculture (Parts 1500 to 1899)	6.50	_____
_____	Title 14—Aeronautics and Space (Part 1200 to End)	6.50	_____
_____	Title 16—Commercial Practices (Parts 0 to 149)	7.00	_____
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