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Thursday
May 12, 1983

Selected Subjects

CONTINUED INSIDE

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Selected Subjects

Contents

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

Separate Parts in This Issue

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.

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

Presidential Documents

Title 3—

The President

Proclamation 5058 of May 6, 1983

Older Americans Month, 1983

By The President of the United States of America

A Proclamation

Throughout our history, the American people have held a special place in their hearts for our older citizens.

From this Nation's earliest days, when the wisdom and eloquence of our elder statesmen played such an important role in the creation of our Republic, to this era of renewed private sector initiative, where so many of our senior citizens toil in volunteer armies of community service across the land, older Americans remain a vital force in our national life.

We recognize that no single group in our society has done more to build America and to shape our national character than our nearly thirty-three million older citizens. We treasure their continuing involvement and the unique understanding they bring to us. Their wisdom, experience, insights, and accomplishments merit an invaluable place in our culture and economy.

Through hard work and creativity, our older Americans have made enormous contributions throughout their lives to preserve our way of life and our standard of living.

Now we must keep faith with them.

It is our responsibility to protect them by reducing inflation—that monster which eats at savings and pensions and destroys the independence and well-being of our older Americans.

Of particular importance to our older citizens is the integrity of their pension funds. The recent rise in business confidence and the resulting surge in the net worth of investments have significantly increased the value of America's pension funds. These developments remind us that the most important step we can take for all Americans, but especially our senior citizens, is to follow economic policies that will create noninflationary growth.

It is also our responsibility to keep faith with our older citizens by guaranteeing a secure and stable social security system so they might live in dignity. The recent amendments to the Social Security Act assure the elderly that America will always uphold the promises made in troubled times a half-century ago.

The future of our older Americans should be as sweet as the memories of their youth. I believe the future for our older citizens holds as much promise as the achievements of their past. In this twenty-first annual observance of Older Americans Month, we celebrate that potential.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1983 as Older Americans Month. I ask public officials at all levels, community agencies, educators, the clergy, the communications media, and the American people to take this opportunity to honor older Americans and to consider how we may make it possible for them to enjoy their later years.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, 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. 83-12902
Filed 3-10-83; 2:29 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5059 of May 10, 1983

Flag Day and National Flag Week, 1983

By the President of the United States of America

A Proclamation

Two hundred eight years ago, the first distinctive American flags were flown over the colonial defenses during the Battle of Bunker Hill. One flag was an adaptation of the British Blue Ensign while the other had a new design. Both flags bore a pine tree, symbol of the struggle colonial Americans undertook to wrest their land from the forests.

As the colonials moved toward a final separation from Britain, other flags with various symbols appeared to inform the world of the hopes, dreams, and challenges of the new Nation. Many of the early American flags carried such mottoes as "Liberty or Death" or "Don't Tread on Me" to reflect the courage and quest for freedom which motivated our forefathers and gave birth to our Nation.

Two years after the Battle of Bunker Hill, the Continental Congress chose a flag which, tellingly, expressed the unity and resolve of the patriots who had banded together to seek independence. The delegates voted "that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation." Two centuries later, with the addition of thirty-seven stars, this flag still symbolizes our shared commitment to freedom and equality. It carries a message of hope to the downtrodden, opportunity to the oppressed, and peace to all mankind.

As challenges face our Nation today, the "Stars and Stripes" continues to remind each of us of the sacrifices and determination which built this Nation. It signals the great land of opportunity that our forefathers carved out of the wilderness and gave their lives to make free so many years ago.

Now it is our responsibility to remember the great price that has been paid to keep our flag flying free today and our privilege to ensure that it will keep flying free for future generations.

To commemorate the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue an annual proclamation calling for its observance and the display of the flag of the United States on all Government buildings. The Congress also requested the President, by a joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate June 14, 1983, as Flag Day and the week beginning June 12, 1983, as National Flag Week, and I direct the appropriate officials of the Government to display the flag on all government buildings during that week. I also urge all Americans to observe Flag Day, June 14, and National Flag Week by flying the "Stars and Stripes" from their homes and other suitable places.

I also urge the American people to celebrate those days from Flag Day through Independence Day, set aside by Congress as a time to honor America (89 Stat. 211), by having public gatherings and activities at which they can honor their country in an appropriate manner.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, 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. 83-12996
Filed 5-11-83; 10:05 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegation of Authority; Authority To Act as Secretary of Agriculture

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to add the position of Assistant Secretary for Administration to the list of officials who serve as Acting Secretary in the absence or unavailability of the Secretary of Agriculture.

EFFECTIVE DATE: May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, United States Department of Agriculture, Washington, D.C., (202) 447-6035.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

2. Section 2.5 is amended by revising paragraph (b) to read as follows:

§ 2.5 Order in which Officers of the Department shall act as Secretary.

* * * * *

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, and the Under Secretary for Small Community and Rural Development, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Marketing and Inspection Services, the Assistant Secretary for Economics, the Assistant Secretary for Science and Education, the Assistant Secretary for Governmental and Public Affairs, and the Assistant Secretary for Administration shall act as Secretary in the order in which they have taken office as an Assistant Secretary. In the event that any two or more Assistant Secretaries shall have taken office on the same date they shall act as Secretary in the order listed herein.

* * * * *

Done this 9th day of May 1983, at Washington, D.C.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-12819 Filed 5-11-83; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 578]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 13–May 19, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202-447-5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. 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. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The

marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on May 10, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.878 is added as follows:

§ 907.878 Navel orange regulation 578.

The quantities of navel oranges grown in California and Arizona which may be handled during the period May 13, 1983, through May 19, 1983, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

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

Dated: May 11, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-13030 Filed 5-11-83; 11:52 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 571

[No. 83-243]

Sale of Branches

Dated: April 26, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations governing the sale of branch offices and the transfer of savings accounts. Sales and transfers by and to institutions whose accounts are insured ("insured institutions") by the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation") will be subject to new application and review procedures. The Board believes the new procedures will allow it to examine supervisory, accounting, and legal issues related to these transactions without substantial interference with the operation of an insured institution or delay in the implementation of its business decisions. The Board is also affording accountholders the opportunity to object to their accounts being transferred to uninsured institutions. Finally, the Board is also protecting rights of accountholders of mutual institutions. These amendments clarify the procedures applicable to sales and transfers of assets and liabilities.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Penfield Starke, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, [202] 377–6453.

SUPPLEMENTARY INFORMATION: On February 18, 1983, the Board proposed to amend §§ 563.22 and 571.5 of its regulations (12 CFR 563.22, 571.5) to clarify the Board's application and review procedures with regard to sales and transfers of assets and account liabilities by and to institutions whose accounts are insured by the Corporation. *See* Board Resolution No. 83–88 (48 FR 8480; March 1, 1983).

Although the Board believes that all such transactions should undergo staff review and Board consideration, the proposal attempted to limit the review to essential matters. The proposed regulation would have required a purchasing institution to submit information sufficient for the Board to make findings on antitrust, Community Reinvestment Act ("CRA") (12 U.S.C 2901–2905), and supervisory issues. Under the proposal, the Board's concern with regard to nonsupervisory selling institutions was limited to the accounting treatment used and assurances that the transaction was negotiated at arm's length. These procedures would allow most nonsupervisory transactions to be automatically approved within 30 days from the date of filing. However, the Board has greater concern with sales by institutions in poor financial condition, and the proposal would have required evidence from the seller demonstrating that the transaction is part of a plan to improve the institution's financial condition rather than an effort to forestall imminent collapse of the institution. In connection with its proposed procedures for the sale of branches, the Board also specifically requested comment on whether an accountholder whose account is being transferred to an institution the accounts of which are not insured by an agency of the federal government should be advised of the proposed transfer and be given the option of maintaining the account in the selling institution. After a review of the public comments submitted in response to the proposal and further staff consideration and analysis, the Board has adopted the regulation substantially as proposed with the modifications discussed below.

The Board received five comments on the proposed rule. Two were from state-chartered savings and loan associations, one each from a state supervisor, a federally chartered association, and an individual. Most commenters agreed that the proposed regulation would serve a valid purpose but felt that the review process should be restricted to reduce the burden of application. Several commenters suggested that a *de minimis* standard be applied to exempt small sales from the application process Other commenters suggested that only sellers with low net-worth ratios should be required to apply to the Board for approval. Another commenter suggested that sale of mutual accountholders' savings to a stock-type entity would be adversely affected by denying the accountholders their ownership rights. None of the comments received by the Board addressed the issue of notice to accountholders whose accounts would be transferred to an uninsured institution.

'De Minimis' Transactions

The Board has considered the suggestion of several commenters that sales of branches not exceeding a certain percentage of the selling institution's assets be exempt from Board review. In light of its experience in reviewing branch sale transactions on a case-by-case basis, the Board believes that such a standard would be extremely difficult to apply equitably because a sale that is *de minimis* in one instance may have material consequences in another. Problems have also arisen as to the yardstick that

would be appropriate in measuring a transaction. For example, using the measure of a percentage of the selling institution's assets, large increases in a purchaser's asset or liability size or large decreases in a seller's liabilities would not be reviewed if the selling institution were relatively large. With these considerations in mind, the Board does not believe that a *de minimis* standard can be effectively implemented.

The intended result of the proposed procedures was to reduce the application burden for all transfer transactions. In connection with the adoption of those procedures today, the Board has directed its staff to refine the transfer application so that it would only require information that the Board believes is essential to assess the merits of the transaction and that the Board is required by statute to review. Therefore, the information required from the buyer will be limited to that necessary to the Board to make findings on antitrust, CRA, and supervisory grounds. In fact, the application will require very little information from the purchasing institution other than information typically generated by such a transaction. The Board can make findings under the antitrust laws with internal information once it is given notice of the parties involved and branches or liabilities to be transferred. Review of CRA considerations will entail an analysis of current CRA statements and a brief description of new market areas, and supervisory considerations can be reviewed by analyzing the specifics of the transaction and its effect on the general financial condition of the buying institution. Therefore, in light of the minimal requirements placed on all branch sale or transfer purchases, the Board believes that the suggestion for an even more limited review standard should not be adopted.

Seller's Application

The Board's proposal would have required that all FSLIC-insured institutions that enter into agreements to sell branches, of transfer deposits outside the ordinary course of business, file certain information to and receive approval from the Board. Two commenters suggested that the Board only require submissions by selling institutions that are in poor financial condition. Applications of nonsupervisory institutions are already significantly more limited in the scope of review than those required to be filed in supervisory cases. The proposal would have required three kinds of information from nonsupervisory sellers; (1) Accounting information, (2) a board-of-directors resolution, and (3) noninducement affidavits. The submission of a resolution and affidavits would not significantly burden the selling institution. The accounting information required would be limited to: a detailed breakdown of the assets and liabilities transferred and their contract rates; the market value of each asset and liability transferred; discount rates used; details of the calculation of the amount of profit or loss from the transaction; and information showing the effect of the transfer on the institution's cost of money and yield on assets. An opinion will be required by an independent accountant stating that the proposed accounting will conform with generally accepted accounting principles.

While the described information is not minimal, it is information that should be prepared by the selling institution's accountants as a part of the transaction and should be readily available to the selling institution. Moreover, given the Board's previously expressed concerns in the areas of accounting treatment of branch sale transactions, the Board believes that it is appropriate that such accounting information be filed in all transactions.

Affected Accountholders

The proposal requested comments concerning the treatment of accountholders whose accounts would be adversely affected by a branch sale transaction. The Board noted that one possible adverse effect in a branch sale could be the loss of federal insurance on an account transferred to a uninsured institution. Despite the fact that there were no comments received on this subject, the Board believes it is appropriate to adopt a rule requiring that such an accountholder losing federal insurance be advised of the proposed transfer and be given the option to retain the account in the selling institution.

The Board has also considered the suggestion that an accountholder of a mutual institution whose account would be transferred to a stock institution be protected from the loss of any inchoate ownership interest in the institution. The Board has adopted detailed regulations, Part 563b of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation (12 CFR Part 563b), regarding conversions of institutions from the mutual to the stock form of organization, which appropriately protect the rights of the accountholders. A sale of branches is not such a significant corporate event, however, that a conversion subject to those conversion regulations is effectuated. Of course, if a conversion to stock form by an institution were disguised as a sale of branches, the transaction would still be governed by the conversion regulations.

Nevertheless, an accountholder whose account is transferred in connection with a branch sale could still be affected by that transfer. A mutual accountholder would be entitled to a *pro rata* share of the mutual institution's equity upon liquidation; an accountholder of a stock institution is merely a creditor and would have no rights in liquidation beyond the account balance. Therefore, the sale of an account by a mutual institution with positive net worth to a stock institution might be viewed as depriving the accountholder of ownership rights. In order to insure that accountholders are not aggrieved by such a transaction, the Board is requiring that the affected accountholders be given notice and opportunity to object to transfer of accounts in a fashion similar to a transfer to an uninsured institution. Thus, the accountholders would not be forced to give up their ownership rights in the mutual institution.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated into the supplementary information accompanying the rule.

2. *Small entities to which the rule will apply.* The rule would apply to all FSLIC-insured institutions.

3. *Impact of the proposed rule on small institutions.* The rule would add new application requirements and amend existing ones for all FSLIC-insured institutions engaging in the sale or purchase of branch offices or the assumption of savings account liabilities. Small institutions must meet the same requirements as larger institutions, but the rule may have a disproportionate effect on larger institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rules.* The basic regulatory requirements included in the rule concern the Board's review of the sale and purchase of branch offices and assumption of savings account liabilities by any FSLIC-insured institution. The

Board believes that the review is necessary in order to assess certain supervisory, antitrust, and CRA concerns discussed elsewhere in the supplementary materials, and that the standards accurately reflect the Board's intended policy for review. It would not be possible to eliminate or modify these requirements for small entities without causing the Board to have insufficient information to act on certain applications.

List of Subjects in 12 CFR Parts 563 and 571

Savings and loan associations.

Accordingly, the Board hereby amends Parts 563 and 571, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Amend § 563.22 by revising the title; revising the first sentence of paragraph (a); redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively; adding new paragraph (b); revising new paragraphs (c) and (d); revising the introductory sentence of new paragraph (f); and adding new paragraphs (g) and (h) as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

(a) No insured institution (which for purposes of this section shall not include a Federal institution the deposits of which are insured by the Federal Deposit Insurance Corporation) may increase its accounts of an insurable type: (1) as part of any merger or consolidation with another institution, (2) through the purchase of assets, or (3) through the assumption of liabilities without application to and approval by the Corporation.* * *

(b) No insured institution (which for purposes of this section shall not include a Federal institution the deposits of which are insured by the Federal Deposit Insurance Corporation) may at any time make a transfer, as defined in § 571.5(a) of this subchapter, of assets or savings account liabilities without application to and approval by the Corporation. Application for such approval shall be upon forms prescribed by the Corporation and shall contain such information as the Corporation may require.

(c) Applications filed pursuant to paragraph (a) of this section shall follow the procedures set forth in § 543.2 of this Chapter, except that: (1) The required newspaper publication of notice of application shall be made in the communities in which the home offices of each of the parties to the transaction are located; and (2) applicants may additionally mail such notice to the voting members of each institution within the time specified in § 543.2(d).

(d) The requirements of paragraph (c) of this section do not apply to any merger, consolidation, purchase of assets, or assumption of liabilities: (1) Authorized by the Corporation to be instituted for supervisory reasons, or (2) involving an interim Federal association or an interim state-chartered institution if the resulting institution is immediately acquired in accordance with the procedures set forth in § 584.4 of this Chapter.

* * * * *

(f) Corporation approval of mergers that may not occur automatically under paragraph (e) of this section, including those which entail modifications of the plan of merger, consolidation, purchase of assets, or assumption of savings account liabilities, may be given by the Board's Principal Supervisory Agent in those cases where paragraph (e) does not apply because:

* * * * *

(g) Unless the context otherwise requires, in paragraphs (e) and (f) of this section: (1) The word "merger" shall also mean "purchase of assets" and "assumption of savings account liabilities"; (2) the term "resulting institution" shall also mean "acquiring institution"; and (3) the terms "merging institution" and "acquired institution" shall also mean "selling institution."

(h)(1) Applications filed pursuant to paragraph (b) of this section shall be deemed approved automatically by the Corporation 30 calendar days after the Principal Supervisory Agent sends written notice to the applicant that the application is complete, unless:

(i) The Principal Supervisory Agent raises objection(s) to the valuation or accounting treatment of the proposed transaction; or

(ii) The Principal Supervisory Agent determines that the financial condition of the selling institution does not satisfy minimum net-worth levels set forth in § 571.5 (k) (2) of this subchapter.

(2) Corporation approval of transactions that may not occur automatically under paragraph (h)(1) of this section may be given by the Principal Supervisory Agent in those cases where paragraph (h)(1) does not apply because the Principal Supervisory Agent objects to the valuation or accounting treatment of the proposed transaction.

2. Amend § 571.5 by revising the title, revising paragraphs (a), (b)(1), (b)(3), (b)(4), the first two sentences of (c)(1), (c)(2), (d)(1), (d)(2), (d)(8), (e), (g), and (i), and adding new paragraphs (j) and (k), as follows:

§ 571.5 Mergers and transfers of assets and liabilities.

(a) *General policy.* This is a statement of the Federal Home Loan Bank Board's general policy on merger and transfer proposals. It does not ordinarily apply to mergers and transfers instituted for supervisory reasons. The term "merger" includes consolidations, and the term "transfers" means transfers in bulk not made in the ordinary course of business, including the transfer of assets and savings account liabilities, purchase of assets, and assumption of savings accounts and other liabilities. Potential merger and transfer applicants are encouraged to review proposed transactions with the Supervisory Agent prior to proceeding with the formal application process. Generally, the Board regards mergers or transfers primarily as business decisions to be made by the institutions involved.

(b) *Legal considerations*—(1) *General.* Conformity under law and regulation is a precondition to approval by the Board. Applicable laws and regulations include the Federal antitrust laws (the Clayton and Sherman Acts), section 408 (regulation of holding companies) of the National Housing Act, the Community Reinvestment Act of 1977, applicable State law, and the Board's own regulations. To enable the Board to make a legal evaluation of the possible anticompetitive impact of proposed mergers and transfers, applicants are required to submit certain information on Board-prescribed forms available at each Federal Home Loan Bank and such other information as may be requested by the Supervisory Agent. In any case in which the Supervisory Agent believes it clear that no antitrust or competitive problem exists, a merger or a transfer proposal may be submitted with relevant partial information short of the complete data called for by the schedules.

* * * * *

(3) *Antitrust considerations.* The Board will examine the impact of the merger or transfer on competition under the relevant antitrust laws and will only deny a merger or transfer on competitive grounds if the merger or transfer will be likely to violate those laws. This analysis will be done for each relevant geographic market. All firms reasonably competitive with the business of the parties to the subject transaction will be

taken into account in determining deposit and loan market statistics and the competitive consequences of the merger or transfer. * * *

(4) *Convenience and needs.* The Board will also examine the extent to which the transaction will affect the convenience and needs of the communities to be served and the impact, if any, on operating efficiency of the resulting or purchasing institution.

(c) *Managerial and financial aspects.* (1) *Managerial aspects.* The Board's primary requirement is that the resulting or purchasing institution have the managerial and financial resources to operate successfully. The experience and the performance record of the persons to be in control or in key managerial positions will be evaluated as to the probability of sound operation of the resulting or purchasing institution. * * *

(2) *Financial aspects.* The overall operations and financial condition will be reviewed to determine the resulting or purchasing institution's prospects of generating sufficient income to meet competition, making the required transfers to reserves, and conducting its affairs essentially free of supervisory concern. The adequacy of the net worth of the resulting or purchasing institution, relative to the risks inherent in its assets, and economic and other factors will be considered. Intangible assets will be closely reviewed.

(d) *Factors relating to fairness and disclosure of the plan.* The Board will review the fairness and disclosure of a merger or transfer proposal on the basis of the following criteria:

(1) *Equitable treatment.* The plan should be equitable to all concerned—savings accountholders, borrowers, creditors, and stockholders (if any) of each institution—giving proper recognition of and protection to their respective legal rights and interests. The plan will be closely reviewed for fairness where the merger or transfer does not appear to be the result of arm's length bargaining or, in the case of a stock institution, where controlling stockholders are receiving different consideration from other stockholders.

(2) *Full disclosure.* The application should make full disclosure of all written or oral agreements or understandings by which any person or company will receive, directly or indirectly, any money, property, service, release of pledges made, or other things of value, whether tangible or intangible, in connection with the merger or transfer.

* * * * *

(8) *Fees paid in connection with mergers and transfers.* The application should state the name of each person or firm rendering legal or other professional services in connection with merger or transfer. The fee expected to be paid to each such person or firm should be stated, together with a description of the services being performed, the time expected to be spent in performing such services, the hourly rate or other basis used for determining the fee, and any relationship between such person or firm and an institutional party to the transaction. If a finder's or similar fee is to be paid in connection with the merger or transfer, the application should fully justify the payment and amount of the fee and state the name of the person or firm to whom the fee is to be paid. No finder's or similar fee should be paid to any officer, director, or controlling person of an institution which is a party to the transaction.

(e) *Accounting for goodwill.* The proposed treatment of goodwill in connection with the merger or transfer must be fully described in the application. The computation and amortization of goodwill should be in accordance with accounting policies of the Board in effect at the time the application is filed.

* * * * *

(g) *Noninducement affidavits.* The application should include a noninducement affidavit on a Board-prescribed form signed by each senior officer, director, and controlling person of each institution which is a party to the transaction and each attorney or law firm regularly serving such institution.

* * * * *

(i) *Tax liability.* In a merger, a tax ruling from the Internal Revenue Service or a tax opinion will be required.

(j) *Transfers.* In addition to the other requirements of this section applicable to the parties involved in transfer transactions, the application of an insured institution which is a party to a transfer should provide a description of: (1) The assets and liabilities subject to transfer and their contract rates; (2) any discount rates used; (3) the market value of the assets and liabilities subject to transfer; and (4) the effect of the transfer on the institution's cost of money and yield on assets.

(k) *Sale of assets or liabilities.*—(1) *Accounting and valuation.* The application of an insured institution selling assets or account liabilities will be reviewed under valuation and accounting standards established by the Board.

(2) *Notice to accountholders.* Notice of a proposed account transfer and the option of retaining the account in the transferring institution shall be furnished to an affected accountholder (i) by an insured institution transferring account liabilities to an institution the accounts of which are not insured by the Corporation, the Federal Deposit Insurance Corporation, or the National Credit Union Share Insurance Fund; and (ii) by any mutual insured institution transferring account liabilities to a stock insured institution. The required notice shall allow affected accountholders at least 30 days to consider whether to retain their accounts in the transferring institution.

(3) *Supervisory concerns.* The Corporation will closely review a transfer of assets and savings account liabilities entered into by an insured institution with regulatory net worth, as defined in § 561.13 of this subchapter, calculated prior to the consummation of the transaction and without the benefit of inclusions permissible under Part 572 of this subchapter, of 0.5% or less of all liabilities. An application by such an institution should demonstrate that the proposed transaction is beneficial to the short-term and long-term viability of the institution, that the transfer was negotiated at arm's length and that the transfer is not detrimental to the interests of the Corporation.

(Sec. 409, 94 Stat. 180, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-12749 Filed 5-11-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-17; Amdt. 39-4560]

Airworthiness Directives; Detroit Diesel Allison; Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17B, and -B17C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD)

superseding AD 77-18-03. The new AD requires inspecting and replacing slotted third stage turbine wheels installed in Detroit Diesel Allison (DDA) Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17B, and -B17C engines and restricts the N1 and N2 operating ranges. The AD is needed to prevent possible partial blade and/or shroud separation of slotted third stage turbine wheels.

DATE: Effective date—June 13, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 14 CFR 39.13 effective on June 13, 1983.

ADDRESSES: The applicable service bulletin may be obtained from Detroit Diesel Allison, Divison of General Motors Corporation, Indianapolis, Indiana 46206. Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that slotted third stage turbine wheels, whether full or center slot, crimped or uncrimped, have encountered partial blade and/or shroud separation before reaching their scheduled life limit of 4,550 operating hours. This partial blade and/or shroud separation can result in loss of engine power. Detroit Diesel Allison (DDA) issued Commercial Engine Alert Bulletin CEB-A-1174/1146 on April 20, 1981, which requires inspecting and replacing slotted third stage turbine wheels per a phase-down schedule. Additionally, CEB-A-1174/1146 requires that all slotted third stage wheels not be operated between 90 percent and 98 percent N2 (including autorotation and flight idle) except during transients, while maintaining safe flight practices, and restricts engine N1 speeds during ground operation. Compliance to date with the N1/N2 operating restrictions, reduced life limits and required inspections has significantly reduced the occurrence of partial blade and/or shroud separations. The amendment will require mandatory compliance with CEB-A-1174/1146 to preclude the possibility of engine power loss resulting from operating slotted third stage turbine wheels to their life limit and to preclude operations in the restricted N1/N2 ranges.

The proposed amendment to require mandatory compliance with CEB-A-1174/1146 was published in the **Federal Register**, 47 FR 43073, as a Notice of Proposed Rulemaking on September 30, 1982.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

List of Subjects in 14 CFR Part 39

Engines, Propellers, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

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

Detroit Diesel Allison: Applies to all Model 250-C20, -C20B, C20C(T63-A-720), -B17, -B17B, and -B17C engines equipped with the following slotted third stage turbine wheels:

Part No.	Type of Shroud
6887113	Full slot.
6888633	Full slot.
6896863	Crimped full slot.
6896551	Center slot.
6896567	Center slot.
6896733	Center slot.
6896743	Center slot.
6896753	Center slot.
6896763	Center slot.
6896823	Crimped full slot.
6899364	Crimped full slot.
6899406	Crimped center slot.
6899415	Crimped center slot.
6899416	Crimped center slot.
6899417	Crimped center slot.
6899418	Crimped center slot.
6899419	Crimped center slot.

Accomplish the following to prevent possible engine power loss resulting from partial blade and/or shroud separation of slotted third stage turbine wheels:

1. Compliance required, as indicated, unless already accomplished:

a. Remove, inspect, reintroduce into service where applicable, and ultimately retire affected turbine wheels in compliance with the schedule and instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-1174/1146, Revision 2 dated September 15, 1982, or later FAA approved revisions.

2. Compliance required within 60 days after the effective date of this AD, unless already accomplished:

a. Placards, markings, or flight manual changes shall be provided to flight crews to avoid sustained operation of all affected engines between 90 and 98 percent N2, except during transients, while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine-out simulation on multiengine aircraft.

b. During all ground operation of affected turbine wheels installed in 250-C20, -C20B, -C20C(T63-A-720) engines, the engine N1 speed must be maintained at ground idle, except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

c. During all ground operation of affected turbine wheels installed in 250-B17, -B17B, -B17C engines, the engine N2 speed must be maintained below 90 percent N2 r.p.m., except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

Upon request of the operator, and equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region. The Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-1174/1146, Revision 2 dated September 15, 1982 identified and described in this directive are incorporated herein and made by reference a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents may also be examined at the Office of Regional Counsel, FAA New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

This AD supersedes Amendment 39-3011, 42 FR 43969, AD 77-18-03.

This amendment becomes effective June 13, 1983.

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

Note:—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034: February 26, 1979), on the basis that the total cost impact is under $6 million. It is certified that the final rule will not have a significant economic impact on a substantial number of small entities because of the phase-down schedule of compliance and because the cost of the action is less than $5,000 per engine which is nominal compared to the overall cost of the aircraft involved or the cost of rebuilding the entire engine if the correction is not made in time.

A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 82-ANE-17, 12 New England, Executive Park, Burlington, Massachusetts 01803.

Note:—The incorporation by reference provisions of this documept were approved by the Director of the Federal Register on April 27, 1983. The referenced Bulletin is available at the Federal Register.

Issued in Burlington, Massachusetts, on March 21, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-12415 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-49-AD; Amendment 39-4647]

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. Models MU-2B-25/-26/-30/-35/-36 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain serial numbered Mitsubishi Heavy Industries, Ltd. (MHI) Models MU-2B-25/-26/-30/-35/-36 airplanes which supersedes AD 77-13-12, Amendment 39-2937 (45 FR 32520). This superseded AD required a one-time inspection and modification, as necessary, of the strobe light conduit tube installations on these airplanes. Subsequent to the issuance of AD 77-13-12, MHI has revised MU-2 Service Bulletin 174, referenced in AD 77-13-12, to recommend modification of the conduit tube installation and initial and repetitive inspections of the unmodified conduit tube at intervals of 100 hours time-in-service. This additional action will preclude fuel leaks into the strobe light assemblies and reduce the potential for explosion and fire.

DATE: Effective date: May 17, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 174C, dated October 2, 1981, applicable to this AD may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aircraft Works, 10, OYE-CHO, MINATO-KU, NAGOYA, JAPAN or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901. This document may also be examined in Room 7108, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Manager, Aircraft Certification Field Office, ANM-170H, P.O. Box 50246, Honolulu, Hawaii 96850, Telephone (808) 546-8650 or 546-8658; or Larry Werth, Foreign FAR 23 Section, ACE-109, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The issuance of AD 77-13-12, Amendment 39-2937, was based upon reports received by the manufacturer, of cracks in the strobe light conduit tube in the wing tip fuel tanks on certain Model MU-2 airplanes. As a result of these reports, MHI issued MU-2 Service Bulletin No. 174, dated September 29, 1976, and the Japan Civil Aviation Bureau (JCAB), issued AD No. TCD-1370-76 incorporating the requirements of this bulletin.

The FAA found that the condition addressed by this Service Bulletin and JCAB AD No. TCD-1370-76 was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 77-13-12 which required a one-time inspection and modification, if necessary, of the strobe light conduit tube installations on MHI Models MU-2B-25/-26/-30/-35/-36 airplanes. Subsequently, the manufacturer has received additional reports of cracks and fuel leaks in the strobe light conduit tube assemblies. As a result MHI has issued MU-2 Service Bulletin No. 174C, dated October 2, 1981, which recommended modification of the conduit tube and an initial and 100-hour repetitive inspection of this component. The JCAB has issued AD No. TCD-1370A-81, dated November 5, 1981, applicable to Mitsubishi MU-2 airplanes operated in Japan which makes the modifications and inspections prescribed in this revision of the bulletin mandatory on these airplanes.

This action corresponds to the issuance of an AD by the FAA on airplanes certified for operation in the United States. The FAA relies upon the certification of the JCAB combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of MU-2 Service Bulletin No. 174C, dated October 2, 1981, and the mandatory classification of this Service Bulletin by the JCAB in their AD No. TCD-1370A-81, dated November 5, 1981.

Based on the foregoing, the FAA has determined that the condition addressed by the manufacturer's Service Bulletin No. 174C and JCAB AD No. TCD-1370A-81 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD superseding AD 77-13-12 is being issued which requires initial and repetitive inspections and modification of the strobe light conduit tubes in the wing tip fuel tanks on certain serial numbered MHI Models MU-2B-25/-26/-30/-35/-36 airplanes in accordance with Mitsubishi Heavy Industries, Ltd., MU-2 Service Bulletin No. 174C dated October 2, 1981.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

Mitsubishi Heavy Industries, LTD: Applies to Models MU-2B-25 and -26 (serial numbers 239 through 328; except serial numbers 313, 321, and airplanes having a serial number with the suffix "SA") and Models MU-2B-30, -35, and -36 (serial numbers 501, 504, and 548 through 673; except serial numbers 652, 661 and airplanes having a serial number with the suffix "SA") airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent fuel or fuel vapors from entering the wing tip strobe light assemblies, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD and thereafter at intervals not to exceed 100 hours time-in-service from the last inspection, inspect the strobe light conduit tubes in the wing tip fuel tanks as detailed in MU-2 Service Bulletin No. 174C dated October 2, 1981 (hereafter referred to as the SB), Item 1—Inspection for Leakage. If leaks are found, prior to further flight, modify the tip tank conduit tube in accordance with Item 2—Rework Procedure, of the SB.

(b) On or before September 1, 1983, modify the tip tank conduit tubes in accordance with Item 2—Rework Procedure, of the SB.

(c) When Item 2—Rework Procedure of the SB is accomplished, the repetitive inspection

required by paragraph (a) is no longer required.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(e) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Field Office, ANM-170H, Federal Aviation Administration, P.O. Box 50246, Honolulu, Hawaii 96850.

This AD supersedes AD 77-13-12, Amendment 39-2937.

This amendment becomes effective on May 17, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1566(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

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

Issued in Kansas City, Missouri, on April 29, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-12674 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91-100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022A, 800 Independence Avenue SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace, Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666 *et seq.* (March 13, 1981). In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669; March 13, 1981) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91-100 follow the adoption of SFAR Nos. 44 through 44-6, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air

traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAMs under that secton.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

In consideration of the foregoing, section 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 3/528.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as Amended; Docket No. 21022A)

* * * * *

FDC 3/628 Emergency Flight Rules—April 29–May 5. Reservation/Flight Plan Filing Rule—Houston, Texas/Offshore Oil Technology Conference, effective March 25, 1983, 2155 Greenwich Time.

The Offshore Oil Technology Conference event is expected to add a significant number of IFR aircraft operations to the air traffic control (ATC) system. To accommodate this traffic without excessive delays, increased ATC staffing and IFR arrival/departure reservations will be required.

Current rules issued under Special Federal Aviation Regulations (SFAR) 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR Rule departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This program does not facilitate accommodation planning.

Pilots proposing nonscheduled general aviation flight to the designated Houston airports will be excluded from the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the designated Houston airports will also be required under this rule. The reservation requirements of this rule are in lieu of the GAR Rule to help facilitate accommodation planning.

Reservations for VFR flight will not be required. However, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly.

Pursuant to SFAR 44, as amended, and Federal Aviation Regulations § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of the following airports (whether used as a primary or alternate) during the effective periods of this rule without a reservation issued under this rule: Houston Intercontinental, William P. Hobby.

2. The effective periods of this rule are May 2 through May 5, daily from 0700 to 2159 Central Daylight Time (CDT).

3. Each person planning IFR flights under this rule shall comply with, in lieu of the GAR Rule, the following requirements:

(a) Reservations may only be requested after 1400 GMT on April 29, 1983.

(b) An arrival reservation to the Houston Intercontinental and William P. Hobby Airports is required and may only be obtained from the Central Flow Control Facility (telephone (202) 382–6866).

(c) A departure reservation from the Houston Intercontinental and William P. Hobby Airports is required and may only be obtained from the Houston FSS (telephone (713) 644–8361).

(d) A flight plan may only be filed after receiving a reservation, but must be filed at least 4 hours prior to the proposed departure time.

4. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 3/641 Emergency Flight Rules May 23–June 1. Flight Plan Filing—Indianapolis, Indiana/INDY 500 Reservation Rule, effective March 29, 1983, 1440 Greenwich Time.

The INDY 500 event is expected to cause approximately 1400 IFR aircraft operations to be added to the air traffic control (ATC) system. To accommodate this traffic without excessive delays and inconvenience to the public, increased ATC staffing and reservations will be required.

Current rules issued under SFAR 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal concentrated arrival demand for a special designation. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision doesn't facilitate accommodation planning.

Pilots proposing nonscheduled general aviation flight to the Indianapolis area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Indianapolis area will be required, and advance request and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Indianapolis area.

Pursuant to the Special Federal Aviation Regulation No. 44, as amended, and Federal Aviation Regulations Section 91.100, the following rule is effective immediately to provide for the safe, orderly handling, and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of Indianapolis area during the effective periods of this rule without a reservation issued under this rule.

2. The Indianapolis area includes the airspace within a 30-nautical-mile radius of Indianapolis, Indiana, and includes the following airports:

Indianapolis International (IND)
Speedway (354)
Metropolitan (418)
Mt. Comfort (2IN2)
Brownsburg (I01)
Eagle Creek (I14)
Terry (I52)
Brookside (I21)
Skyway (5I1)
Lebanon (6I4)

The effective periods are as follows:

Arrivals: May 27, 1300 G.m.t. to May 29, 1600 G.m.t.—excluding the hours between 0300 and 1100 G.m.t.

Departures: May 29, 2000 G.m.t. to June 1, 0300 G.m.t.—excluding the hours between 0300 and 1100 G.m.t.

4. Each person planning IFR flights under this rule shall comply with, in lieu of the GAR, the following:

(a) Reservations may only be requested after 1400 GMT on May 23, 1983.

(b) An arrival reservation to the Indianapolis area is required and must be obtained from the Central Flow Control Facility (telephone (212) 382–3366).

(c) A departure reservation from the Indianapolis area is required and must be obtained from the Indianapolis FSS (telephone (317) 244–3316).

(d) Flight plans may only be filed after receiving a reservation, but must be filed at least 4 hours prior to the proposed departure time.

(e) Flight plans for flight from the Indianapolis area must be filed with Indianapolis FSS.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 3/671 Emergency Flight Rules —IFR Flight Plan Filing/General Aviation Reservation Rule effective April 1, 1983, 2145 Greenwich Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation (GAR) Rule with respect to certain operations. On March 14, 1983, several ARTCC's were added to the lists that currently allow inter- and intra-ARTCC operations without requiring reservations under this rule. The situation is such now that more turboprop operations can be conducted without a reservation. However, existing restrictions under the GAR Rule remain in effect for operations from certain airports that are capacity controlled by SFAR 44 as amended.

Accordingly, pursuant to SFAR–44, as amended, and § 91.100 of the Federal Aviation Regulations, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO-approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Intra-ARTCC—

(1) effective immediately, flights in the Albuquerque, Atlanta, Boston, Denver, Jacksonville, Kansas City, Los Angeles, Memphis, Oakland, Salt Lake City, Seattle, or Washington, ARTCC's airspace;

(2) effective immediately, turboprop flights in the Ft. Worth or Houston ARTCC's airspace; and

(3) effective 0600 local time on the date specified, flights in any of the following ARTCC's airspace—

(a) April 4, 1983—Cleveland (turboprops only);

(b) April 11, 1983—Miami;

(c) May 16, 1983—Houston;

(d) May 16, 1983—Ft. Worth;

(e) June 20, 1983—Cleveland;

(f) July 1, 1983—New York City;

(g) August 22, 1983—Minneapolis;

(k) August 22, 1983—Chicago; and

(l) August 22, 1983—Indianapolis.

L. Inter-ARTCC—

(1) effective immediately, flights within the airspace of any of the following groups:

(a) Seattle, Salt Lake City, and Oakland; and

(b) Albuquerque, Kansas City, and Memphis.

(2) effective 0600 local time on the dates specified, flights within the airspace of any of the following groups—

(a) April 4, 1983—Cleveland and Boston (turboprops only);

(b) April 11, 1983—Atlanta, Jacksonville, and Washington;

(c) May 16, 1983—Seattle, Salt Lake City, Oakland, and Los Angeles;

(d) May 16, 1983—Atlanta, Jacksonville, Washington, and Miami;

(e) June 20, 1983—Albuquerque, Kansas City, Memphis, and Denver;

(f) July 1, 1983—New York City and Boston;

(g) July 25, 1983—Atlanta, Jacksonville, Washington, Miami, and Houston;

(h) September 1, 1983—Albuquerque, Kansas City, Memphis, Denver, and Ft. Worth; and

(i) September 9, 1983—Minneapolis, Chicago, Indianapolis, Cleveland, New York City, and Boston.

5. Notwithstanding 4K and 4L above, this rule applies to flights from airports that are capacity controlled by SFAR 44, as amended.

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC NOTAM 3/528.

Issued in Washington, DC, on May 2, 1983.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 83-12447 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 249

[Economic Regulation Docket 33725; ER-1214A]

Preservation of Air Carrier Records

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Approval of Extension of Record Retention Requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board has extended the record retention requirements prescribed for air carriers in ER–1214 (46 FR 25414, May 6, 1981). The Office of Management and Budget approved the extension of these requirements through April 30, 1986, under OMB No. 3024–0006.

DATES: Effective: April 8, 1983. Adopted: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 249

Record retention requirements.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12818 Filed 5-11-83; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1610, 1615, and 1616

Standards for the Flammability of Clothing Textiles and Children's Sleepwear; Final Enforcement and Administrative Rules

AGENCY: Consumer Product Safety Commission.

ACTION: Final rules.

SUMMARY: The Commission issues on a final basis rules for the enforcement and

administration of the Flammable Fabrics Act (FFA) regarding the use of tests other than the ones set forth in the flammability standards for clothing textiles (16 CFR Part 1610) and for children's sleepwear (16 CFR Parts 1615 and 1616) for purposes of supporting guaranties of items subject to those standards, and to demonstrate compliance with the pre-market testing requirements of the children's sleepwear standards. The rules interpret the phrase "reasonable and representative tests," as used in section 8 of the FFA, to include any alternate test utilizing apparatus or procedure other than those set forth in the flammability standards for clothing textiles or children's sleepwear, if the alternate test is as stringent as, or more stringent than, the test in the applicable standard. Additionally, the rules implementing the children's sleepwear standards provide that, subject to the same conditions, such alternate tests may also be used for purposes of complying with the requirements of the children's sleepwear standards for pre-market testing by manufacturers and importers of fabrics and garments subject to those standards. The purpose of these rules is to set forth conditions under which persons and firms required to perform testing to support guaranties of items subject to these standards, and for purposes of compliance with the children's sleepwear standards, may use test apparatus or procedures other than those set forth in the applicable standard.

EFFECTIVE DATE: The rules will become effective on June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6400.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) require that articles of wearing apparel and fabrics used or intended for use as clothing textiles must not exhibit "rapid and intense burning" when tested in accordance with that standard. The clothing textiles standard describes a test apparatus, and sets forth the procedure to be used for testing. The clothing textiles standard is generally applicable to all items of wearing apparel, and fabrics used for such apparel, for both children and adults.

However, children's sleepwear garments in sizes 0 to 14, and fabrics which are intended for use in making such garments, are subject to the more stringent requirements of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR Part 1615) or the Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14 (16 CFR Part 1616).

Both of the children's sleepwear standards require that garments and fabrics which are subject to their requirements must self-extinguish when exposed to an open flame ignition source.

In order to comply with the children's sleepwear standards, manufacturers, importers, and other persons (such as converters) initially introducing items subject to the children's sleepwear standards into commerce must regularly test items from current production. The sleepwear standards prescribe the apparatus and procedure to be used for performing tests of fabrics and garments subject to their provisions. See 16 CFR 1615.4(a), (f), and (g); and 16 CFR 1616.5. The standards prescribe pass/fail criteria at 16 CFR 1615.3(b), and 1616.3(b). Both standards require that persons and firms subject to their provisions must group items into production units, and test samples from each production unit. See 16 CFR 1615.4(b), (c), and (d); and 16 CFR 1616.4. The schedules for sampling and testing set forth in the sleepwear standards are called "sampling plans."

The manufacture for sale, importation into the United States, or introduction in commerce of any item of wearing apparel or fabric which fails to comply with an applicable flammability standard violates section 3 of the FFA (15 U.S.C. 1192) and section 5 of the Federal Trade Commission Act (FTCA, 15 U.S.C. 45). Such a violation may give rise to an administrative order to cease and desist from further violation of the FFA and FTCA, as well as to a civil action in the United States District Court under provisions of the FFA for injunction, or for seizure of items which fail to comply with an applicable standard of flammability.

In addition to seeking an administrative order, or initiating civil actions for violation of an applicable flammability standard, the FFA, and the FTCA, the Commission may also proceed under section 7 of the FFA (15 U.S.C. 1196) to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8(a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. (A guaranty does not provide the holder any defense to an administrative action for an order to cease and desist from further violation of the applicable standard, the FFA, and the FTCA, nor to any civil action for injunction or seizure brought under the FFA.)

Among the requirements established for a guaranty by section 8(a) of the FFA is that it must be based upon "reasonable and representative tests" conducted in accordance with the applicable standard. Section 8(b) of the FFA (15 U.S.C. 1197(b)) prohibits the issuance of a "false guaranty."

Application for Use of Alternate Test Apparatus

By letter dated July 11, 1975, the William Carter Company, a manufacturer of children's sleepwear, requested approval of an alternate test apparatus for use in testing fabrics and garments subject to the children's sleepwear standad for sizes 7 through 14 (16 CFR Part 1616) under provisions of § 16.16.5(a) of that standard. (2) [1] That section of the standard states:

§ 1616.5 Test procedure.

(a) *Apparatus.* The following apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Products Safety Commission.

The Carter application included a description of the alternate test apparatus, and a comparison of results from testing two types of fabrics using both the alternate test apparatus, and the apparatus described in the standard. Carter claimed that the comparative test data demonstrated that use of the alternate test apparatus produced results which were equivalent to, or more stringent than, the results obtained from testing using the apparatus described in the standard. The application from Carter also stated that use of the alternate test apparatus would reduce the time required for testing by one-half to two-thirds. (2)

After reviewing the data included in the Carter application, the Commission staff concluded that Carter's analysis of the equivalency of test results was correct with regard to the two specific fabrics which were the subject of Carter's comparative testing program. (5) However, the staff lacked the

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

resources needed to duplicate the apparatus described in the Carter application and verify that it would produce results equivalent to those obtained using the apparatus described in the standard on fabrics representative of the entire range used in the production of children's sleepwear. (8)

Related Petition

On July 8, 1980, Milliken Research Corporation submitted a petition (FP 80–3) requesting the Commission to amend the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) to allow use of an alternate test utilizing different apparatus and procedure, than those specified in the clothing textiles standard.(10)

Unlike the sleepwear standard, the clothing textiles standard does not require manufacturers, importers or other firms introducing items subject to that standard into commerce to test items from current production. All that is required for compliance with the clothing textiles standard is that any item subject to its provisions must not exhibit "rapid and intense burning" if tested by the Commission.

Although manufacturers are not required to perform testing in order to comply with the clothing textiles standard, if they issue guaranties of items subject to that standard, the guaranty must be based on "reasonable and representative tests" conducted in accordance with that standard. A memorandum of a telephone conversation on November 20, 1980, between a member of the Commission staff and the author of the Milliken petition indicates that Milliken desired to use the alternate test for purposes of supporting guaranties of fabrics subject to the clothing textiles standard. (13)

The Commisssion staff prepared a briefing package which recommended that the Commission grant the relief requested in the petition from Milliken by allowing persons and firms issuing guarantees to use alternate apparatus for testing to support guaranties if items subject to the clothing textiles standard, rather than by amending that standard to change the apparatus to be used for testing by the Commission. (9) The staff briefing package also recommended that the Commission act on Carter's application for approval of alternate test apparatus by issuance of a similar interpretation of the children's sleepwear standards and the FFA to allow use of alternate test apparatus and procedures under certain conditions. (9)

The sleepwear standard for sizes 7 through 14 makes provision for use of test apparatus other than the equipment specified in that standard, as noted above. The sleepwear standard for sizes 0 through 6X has no specific provision authorizing or prohibiting the use of alternate test apparatus or procedure by persons and firms required to perform testing under that standard.

In the **Federal Register** of February 6, 1978 (43 FR 4853), the Commission amended the sleepwear standard for sizes 0 through 6X to make its requirements for flame resistance of fabrics and garments substantively identical to those of the standard for sizes 7 through 14. (1) The Commission staff is aware that many firms which manufacture sleepwear produce fabrics and garments which are subject to both the standard for sizes 0 through 6X and the standard for sizes 7 through 14. For these reasons, after considering the request from Carter for approval of alternate test apparatus and the petition from Milliken Corporation, the staff recommended that the Commission authorize use of alternate test apparatus and procedures under the same conditions for persons and firms required to perform testing under the sleepwear standard for sizes 0 through 6X as well as the standard for sizes 7 through 14.

After consideration of the request of the William Carter Company, the petition from Milliken Research Corporation, the staff briefing package, and an oral briefing by the staff, the Commission voted to approve the staff's recommendations. (13, 14)

Proposed Rules

In the **Federal Register** of May 17, 1982 (47 FR 21081), the Commission published three proposed rules interpreting section 8(a) of the FFA and the flammability standards for clothing textiles and children's sleepwear to allow use of alternate apparatus and procedures by manufacturers and importers when testing to support guaranties of items subject to those standards, provided that a test utilizing such alternate apparatus or procedure is as stringent as, or more stringent than, a test utilizing the apparatus and procedure specified in the applicable standard. (17) The proposed rules interpreting the children's sleepwear standards also authorized use of alternate apparatus and procedures, subject to the same condition, for purposes of compliance with the requirements for pre-market testing in those standards.

The three proposed rules set forth the following provisions applicable to use of alternate test apparatus and procedures:

(1) Persons or firms desiring to use an alternate test apparatus or procedure must have in their possession test data or other information to demonstrate that a test using that apparatus or procedure is as stringent as, or more stringent than, a test using the apparatus and procedure specified by the applicable standard prior to use of such alternate apparatus or procedure to support guaranties or for purposes of compliance with the sleepwear standards.

(2) The Commission will consider a test utilizing alternate apparatus or procedure to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedure specified by the applicable standard if, when testing identical specimens, a test utilizing the alternate apparatus or procedures yields failing results as often as, or more than, a test utilizing the apparatus and procedures specified in the applicable standard.

(3) Written application for Commission approval to use alternate test apparatus or procedures is not required, and the Commission will not act on any individual request for approval of an alternate test apparatus or procedure.

All three proposed rules stated that the Commission will test fabrics and garments subject to the three standards using the apparatus and procedure specified in the applicable standard for purposes of determining compliance with the requirements of the FFA and the three standards. (17)

The proposals also solicited information responsive to the following questions:

1. Would manufacturers and importers use alternate apparatus or procedures for testing under the conditions set forth in the proposals?
2. If so, what savings in the costs or hours required for testing are anticipated?
3. Could the proposed rules be modified to increase savings in the dollar or hourly costs of testing? (17)

Comments

In response to the proposals of May 17, 1982, the Commission received eight written comments: three from manufacturers of items subject to flammability standards; four from associations of manufacturers of such items; and one from a public interest group.

Comments from two associations of manufacturers expressed agreement with and support for the proposals. (19, 23) These comments express the view that the proposed rules, if issued, on a final basis, would not reduce the level of protection afforded by the three flammability standards, and have the potential to reduce costs and time

required for testing. One comment observed that the rules would not impose any substantial burden on any new firm, because they allow use of the apparatus and procedures specified in the applicable standard if a firm elects to use them. (23)

The remainder of the comments expressed concern about or objection to one or more provisions of the proposed rules. The following issues were raised by those comments.

Economic Advantage to Larger Firms

Two manufacturers state that only the larger companies would be in a position to develop and implement tests using alternate apparatus or procedures. These commenters express concern that one effect of final rules based on the proposals would be to place smaller companies at a competitive disadvantage. (18, 21)

The Commission anticipates that larger firms most likely will be among the first to develop alternate apparatus and procedures for testing. However, economic information available to the Commission indicates that the cost advantage which larger firms may realize will be relatively small. (28) Additionally, the Commission believes that many small firms will be able to develop alternate test apparatus or procedures, or use alternate test equipment and procedures developed by larger firms, if such test methods could lead to a significant cost savings. (28) For these reasons, the Commission concludes that the possible cost advantage to larger firms which might result from issuance of final rules will have relatively little impact on competition within the affected industries.

Effect of Rules on Product Liability Actions

Comments from one manufacturer and one association of manufacturers oppose issuance of the proposed rules because the commenters believe the rules would weaken the position of garment manufacturers in product liability suits. (21, 25) These comments express concern that persons manufacturing garments from fabrics which are the subject of guaranties would not be able to determine if the guaranties were supported by tests using the apparatus and procedures specified by the applicable standards, or by tests using alternate apparatus or procedures.

Another association of manufacturers commented that issuance of the proposed rules on a final basis could create confusion in the defense of product liability actions. (22) This comment indicated that in view of the possibility of product liability actions, many manufacturers would continue to use only the apparatus and procedures specified by the applicable standard. This comment requests clarification about the effect of issuance of the rules on defense of product liability suits. (22)

These comments reflect a concern that items guarantied on the basis of tests using alternate apparatus or procedures will not necessarily meet the requirements of the applicable standard when tested using the apparatus and procedures specified in that standard. These comments seemingly overlook those provisions in the proposals which require that persons or firms using alternate apparatus or procedures must have test results or other information to demonstrate the equivalent stringency of tests using alternate apparatus or procedures with tests conducted with the apparatus and procedures specified in the applicable standard before such alternate apparatus or procedure may be used for the purpose of supporting guaranties or performing pre-market testing required by the children's sleepwear standards. (17)

Additionally, these comments apparently do not consider the possibility that use of alternate apparatus or procedures under the conditions specified in the rules could lead to increased testing of items subject to flammability standards if alternate tests could be performed more quickly or at less cost than tests using the apparatus and procedures specified by the applicable standard. In such an event, compliance with flammability standards might be improved. (28)

Like the proposals of May 17, 1982, the rules issued below state that for purposes of determining compliance with the three standards, the Commission will use the apparatus and procedures specified by the applicable standard. The rules issued below do not alter any requirement contained in the three standards.

Consequently, to the extent that compliance with the applicable standard may be an issue in a product liability suit, the resolution of that issue would require testing with the apparatus and procedure specified by that standard. The Commission observes that no provision of the rules issued below prohibits the purchaser of an item which is subject to a flammability standard to require as a condition of sale a guaranty which is supported by tests conducted with the apparatus and procedures specified in the applicable standard.

Commission Approval of Alternate Apparatus and Procedure

A comment from an association of manufacturers urges the Commission to modify the proposals to allow use of alternate test apparatus and procedures only when approved in advance by the Commission. (25) This comment observes that the sleepwear standard for sizes 7 through 14 contains explicit provisions for Commission approval of alternate apparatus prior to use by persons and firms subject to that standard. See 16 CFR 1616.5(a). This comment states that prior approval by the Commission would give greater assurance to garment manufacturers that the fabrics they purchase will meet the requirements of the applicable standard. This comment acknowledges that such an approach would add to the workload of the Commission. (25)

Similarly, comments from two manufacturers state that if any change to the test apparatus or procedure is made, it should be one to prescribe a single apparatus and procedure for use by all manufacturers. These comments express concern that a proliferation of alternate test apparatus and procedures may result if the proposed rules are issued on a final basis. (18, 20)

As noted above, the Commission began this proceeding after receiving two separate requests for approval of alternate test apparatus. (2, 10)

The basic problem with Commission approval of alternate apparatus or procedures for use by all manufacturers is that the Commission lacks the staff and monetary resources to perform the extensive testing necessary to assure that the alternate apparatus or procedure will yield results equivalent to those obtained using the apparatus and procedure specified in the standard when testing all of the fabrics currently in use which might be subject to the standard in question. (29)

The rules issued below place the burden of demonstrating equivalency of test results from the alternate apparatus on the person or firm that will derive the benefit from using the alternate apparatus or procedure. Additionally, that person or firm need not demonstrate that use of the alternate apparatus or procedure will produce equivalent results on the entire universe of fabrics or garments which may be subject to the standard. Instead, equivalency of test results must only be established with regard to the fabrics or garments being manufactured or guarantied by the person or firm desiring to use the alternate apparatus or procedure.

The Commission has taken an approach regarding use of alternate laundering procedures when testing fabrics and garments subject to the children's sleepwear standards which is similar to that of the proposed rules for use of alternate test apparatus or procedure. (29) This approach places responsibility on the person or firm desiring to use an alternate laundering procedure to develop test data to show equivalent stringency of the alternate laundering procedure for the fabrics of garments which that person or firm proposes to test using the alternate laundering procedure. See 16 CFR 1615.32 and 1616.32.

The Commission's rules for use of alternate laundering procedures have been in effect since 1977. Based on its experience with the rules governing use of alternate laundering procedures, the Commission concludes that the rules issued below regarding use of alternate test apparatus and procedures and practicable for both the Commission and the affected industries.

Enforcement of Standards

A comment from a public interest group expresses concern that the rules, as proposed, might weaken the Commission's ability to enforce the standards, particularly the clothing textiles standard (16 CFR Part 1610). (24)

All three proposals contained provisions to the effect that the Commission will continue to test fabrics and garments using the apparatus and procedure specified by the applicable standard. All three proposals had additional language stating that the Commission "may consider" failing results from compliance tests "as evidence" of a violation of the applicable standard and the FFA. (17) See proposed §§ 1610.40(g); 1615.35(e), 1615.36(d); 1616.35(f), 1616.36(d).

The comment under consideration states that under the FAA, a failing compliance test would be proof of failure, not just evidence. To correct this problem, this comment suggested alternative language for proposed § 1610.40(g) to the effect that the Commission will test fabrics and garments for compliance with the standard using the apparatus and procedures set forth in the standard, and will regard as irrelevant any evidence that the fabric or garment passed an alternate test. This comment states that the rules should provide that evidence of passing results from an alternate test will be considered by the Commission only with regard to issues of good faith, knowledge, or willfulness. (24)

The Commission observes that when it considers an alleged violation of the FFA, it takes into account all relevant evidence. As this comment suggests, the principal evidence of a violation will continue to be tests conducted by the Commission using the equipment and procedures specified by the applicable standard. Although the extensive language change requested by this comment does not appear to be necessary, the Commission agrees that its position in enforcement actions would be improved by changing the sections which are the subject of this comment to state that the Commission "will consider" failing results of compliance testing as evidence of a violation of the applicable standard and the FFA. That change appears in the rules issued below.

Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposal on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the proposal, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

In the notice of May 17, 1982, the Commission stated that it had certified that the proposed rules would not have a significant economic impact on a substantial number of small entities if issued on a final basis. In that notice, the Commission observed that the proposed rules would not add any new requirement for any person or firm issuing guaranties for items subject to the flammability standards for clothing textiles or children's sleepwear, or for manufacturers or importers of items subject to the children's sleepwear standards. Rather, the proposal would allow persons and firms currently subject to existing requirements for testing to use apparatus and procedures other than those specified in the applicable standard under the conditions specified in the proposals.

The Commission published the proposals after receiving requests from manufacturers who claimed that use of an alternate test apparatus would reduce their costs of testing. After the rules issued below become effective, those firms and any others currently required to perform testing in order to support guaranties or comply with the requirements of the children's sleepwear standards will have the option of using alternate apparatus or procedures under the conditions set forth in the rules.

However, if any person or firm concludes that use of an alternate apparatus or procedures, under the conditions specified in the rules, will not reduce testing costs or offer any other advantage, that person or firm is free to continue using the apparatus and procedures specified in the applicable standard.

The Commission received and considered comments to the effect that the rules issued below may give a competitive advantage to larger firms to the detriment of small firms. The Commission has concluded that any advantage to larger firms which may result from issuance of these rules will not be significant, for the reasons set forth in the discussion of comments.

Environmental Considerations

As stated in the notice of proposal, the Commission's environmental review procedures state at 16 CFR 1021.5(c)(1) that issuance, amendment or revocation of rules for product performance normally has little or no potential for affecting the human environment.

The Commission does not foresee any special or unusual circumstances surrounding the rules issued below. For this reason, neither an environmental assessment or an environmental impact statement is required.

List of Subjects in 16 CRR Part 1610

Clothing, Consumer protection, Flammable materials, Records, Textiles, Warranties.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Textiles, Warranties.

Conclusion and Promulgation

After consideration of written comments on the proposed rules, analysis of those comments by the Commission staff, and other relevant information, the Commission concludes that the rules authorizing use of alternate test apparatus and procedures should be issued on a final basis, with the modification discussed above, to become effective on June 13, 1983.

Therefore, in accordance with the provisions of the Flammable Fabrics Act (sec. 5, Pub. L. 90–189, 81 Stat. 569 (15 U.S.C. 1194)) and the Consumer Product Safety Act (sec. 30, Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079)), the Commission hereby amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter B as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Part 1610, Subpart B is amended by adding a new § 1610.40 to read as follows:

§ 1610.40 Use of alternate apparatus, procedures, or criteria for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) The Standard for the Flammability of Clothing Textiles (the Standard) prescribes apparatus and procedures for testing fabrics and garments subject to its provisions. See 16 CFR 1610.4. The Standard prescribes criteria for classifying the flammability of fabrics and garments subject to its provisions as "Normal flammability, Class 1," "Intermediate flammability, Class 2," and "rapid and intense burning, Class 3." See 16 CFR 1610.3. Sections 3 and 4 of the Flammable Fabrics Act, as enacted in 1953 and amended in 1954, prohibits the manufacture for sale, importation into the United States, or introduction in commerce of any fabric or article of wearing apparel subject to the Standard which exhibits "rapid and intense burning" when tested in accordance with the Standard. See 16 CFR Part 1609.

(c) The Commission recognizes that for purposes of supporting guaranties, "reasonable and representative tests" could be either the test in the Standard, or alternate tests which utilize apparatus or procedures other than those in the Standard. This § 1610.40 sets forth conditions under which the Commission will allow use of alternate tests with apparatus or procedures other than those in the Standard to serve as the basis for guaranties.

(d)(1) Persons and firms issuing guaranties that fabrics or garments subject to the Standard meet its requirements may base those guaranties on any alternate test utilizing apparatus or procedures other than those in the Standard, if such alternate test is as stringent as, or more stringent than, the test in the Standard. The Commission considers an alternate test to be "as stringent as, or more stringent than" the test in the Standard if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in the Standard. Any person using such an alternate test must have data or information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in the Standard.

(2) The data or information required by this paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be in the possession of the person or firm desiring to use such alternate test before the alternate test may be used to support guaranties of items subject to the Standard.

(3) The data or information required by paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be retained for as long as that alternate test is used to support guaranties of items subject to the Standard, and for one year thereafter.

(Approved by Office of Management and Budget under control number 3041–0024)

(e) Specific approval from the Commission in advance of the use of any alternate test using apparatus or procedures other than those in the standard is not required. The Commission will not approve or disapprove any specific alternate test utilizing apparatus or procedures other than those in the Standard.

(f) Use of any alternate test to support guaranties of items subject to the Standard without the information required by this section may result in violation of section 8(b)), of the FFA (15 U.S.C. 1197(b)), which prohibits the furnishing of a false guaranty.

(g) The commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that:

(1) The manufacture for sale, importation into the United States, or introduction in commerce of the fabric or garment which yielded failing results was in violation of the Standard and of section 3 of the FFA; and

(2) The person or firm using the alternate test as the basis for a guaranty has furnished a false guaranty, in violation of section 8(b) of the FFA.

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZE 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart B is amended by adding new § 1615.35 and § 1615.36 to read as follows:

§ 1615.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1615.4 (b), (c) and (d). The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1615.4 (a), (f), and (g). The Standard prescribes pass/fail criteria at 16 CFR 1615.3(b).

(b)(1) By issuance of this § 1615.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedures is as stringent as, or more stringent than, a test utilizing the apparatus and procedures specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternate apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the Standard.

(2) The data or information required by this paragraph (b) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the Standard.

(3) The information required by this paragraph (b) of this section must be retained by the person or firm using the alternate test apparatus or procedure for as long as that apparatus or procedure is used for purposes of compliance with

the Standard, and for a period of one year thereafter.

(Approved by Office of Management and Budget under control number 3041-0027.)

(c) Written application to the Commission is not required for approval of alternate test apparatus or procedure, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedure.

(d) Use of any alternate test apparatus or procedure without the data or information required by paragraph (b), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(e) The Commission will test fabrics and garments subjects to the Standard for compliance with the requirements of the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence of a violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C 1192).

§ 1615.36 Use of alternate apparatus or procedures for tests for guaranty purposes

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1615.31(f) of the regulations implementing the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1615.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1615.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedures under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5-74)

Part 1616, Subpart B is amended by adding new §§ 1616.35 and 1616.36 to read as follows:

§ 1616.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1616.4. The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1616.5. The Standard prescribes pass/fail criteria at 16 CFR 1616.3(b).

(b) Section 1616.5(a) states that alternate test apparatus may be used by persons or firms required to perform testing under the Standard "only with prior approval" of the Commission.

(c)(1) By issuance of this § 1616.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedure is as stringent as, or more stringent than, a test utilizing the apparatus and procedure specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard, if when testing identical specimens, a test utilizing alternative apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the standard.

(2) The data or information required by this paragraph (c) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the standard.

(3) The information required by this paragraph (c) of this section must be retained by the person or firm using the alternate test apparatus or procedures for as long as that apparatus or procedure is used for purposes of compliance with the standard, and for a period of one year there after.

(Approved by Office of Management and Budget under control number 3041-0027.)

(d) Written application to the Commission is not required for approval of alternate test apparatus or procedures, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedures.

(e) Use of any alternate test apparatus or procedures without the data or information required by paragraph (c), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(f) The Commission will test fabrics and garments subject to the standard for compliance with the requirements of the standard using the apparatus and procedures set forth in the standard. The Commission will consider any failing results from compliance testing as evidence of a violation of the standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

§ 1616.36 Use of alternate apparatus or procedures for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1616.31(e) of the regulations implementing the Standard

for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1616.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1616.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedure under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(b))

Dated: May 6, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. **Federal Register** notice amending Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X, and Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14; 8 pages; February 6, 1978 (43 FR 4849).

2. Letter from the William Carter Company to Secretary, Consumer Product Safety Commission, requesting approval for use of alternative test apparatus for purposes of testing for compliance with children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616), with attachments; 38 pages; July 11, 1975.

3. Memorandum from Bernard Schwartz, OSCA, to Distribution concerning request from Carter for approval of alternate test apparatus; 1 page; August 14, 1975.

4. Memorandum from Margaret L. Neily, BESB, to Bernard Schwartz, OSCA, commenting on Carter request for approval of alternate test apparatus; 2 pages; September 12, 1975.

5. Memorandum from Ralph Madison, BESB, to Bernard Schwartz, SCAT, concerning Carter request for approval of alternate test apparatus; 1 page; September 12, 1975.

6. Log of telephone conversation between Bernard Schwartz, OSCA, and O. P. Beckwith, William Carter Company, concerning Carter request for approval of alternate test apparatus; 1 page; October 23, 1975.

7. Memorandum from Bernard Schwartz, OSCA, to Bureau of Engineering Sciences, requesting review of attached memorandum from Bureau of Economic Analysis, with attachments; 4 pages; May 25, 1976.

8. Memorandum from Margaret Neily, BESB, to Bernard Schwartz, OSCA, responding to memorandum of May 25, 1976, concerning economic analysis of Carter request for approval of alternate test apparatus, with attachment; 8 pages; August 26, 1976.

9. Staff briefing package prepared by Elaine A. Tyrrell, Office of Program Management addressing Milliken Petition, FP 80–3; 5 pages; December 11, 1980. The tabs to this package are listed separately.

10. TAB A, petition from Milliken Research Corporation (FP 80–3) requesting amendment of the Standard for the Flammability for Clothing Textiles to allow use of alternate test apparatus; 4 pages; July 1, 1980.

11. TAB B, memorandum from Stephen Lemberg, Assistant General Counsel to Office of the Secretary concerning FP 80–3; 2 pages; July 30, 1980.

12. TAB C, memorandum from Liz Jones, Division of Regulatory Management concerning FP 80–3; 4 pages; October 29, 1980.

13. Memorandum from Allen F. Brauninger, OGC, to Commission, transmitting staff briefing package on FP 80–3, with attachments; 5 pages; January 5, 1981.

14. Vote sheet concerning FP 80–3, from Allen F. Brauninger, OGC, to Commission; 2 pages; January 5, 1981.

15. Minutes of Commission meeting of January 14, 1981, recording Commission vote to grant FP 80–3; 2 pages; January 16, 1981.

16. Staff briefing package prepared by L. J. Sharman, Office of Program Management, concerning use of alternate test apparatus in flammable fabrics standards; 8 pages; February 14, 1983. The tabs to this package are listed separately.

17. TAB A, **Federal Register** notice proposing rules to allow use of alternate apparatus and procedures for testing under the flammability standards for clothing textiles and children's sleepwear; 13 pages; May 17, 1982 (47 FR 21081).

TAB B, comments on proposed rules:

18. Comment from the Jaunty Textile Corp., 1 page, June 21, 1982.

19. Comment from National Association of Hosiery Manufacturers; 2 pages; July 8, 1982.

20. Comment from Uniroyal, Inc.; 1 page; June 30, 1982.

21. Comment from Bates Nitewear Company; 2 pages; July 15, 1982.

22. Comment from National Knitwear Manufacturers Association; 1 page; July 15, 1982.

23. Comment from American Textile Manufacturers Institute; 1 page; July 16, 1982.

24. Comment from Citizens' Committee for Fire Protection; 2 pages; July 14, 1982.

25. Comment from American Apparel Manufacturers Association; 5 pages; July 29, 1982.

26. TAB C, chart summarizing comments; 2 pages; undated.

TAB D, Staff analysis of comments on proposed rules:

27. Memorandum from Liz Gomilla, CARM, to L. J. Sharman, OPM, concerning comments on proposed rules; 2 pages; September 14, 1982.

28. Memorandum from Dale Ray, ECCP, to L. James Sharman, OPM, concerning comments on proposed rules; 3 pages; September 24, 1982.

29. Memorandum from Pat Fairall, ESMT, to Margaret Neily, ESMT, concerning comments on proposed rules; 2 pages; October 1, 1982.

30. TAB E, draft **Federal Register** notice to issue final rules; 24 pages; undated.

[FR Doc. 83-12682 Filed 5-11-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. 1

[FHWA Docket No. 83–4, Notice No. 6]

Truck Size Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of modifications and cancellation of certain interim designated highways.

SUMMARY: The FHWA made an interim designation of each State's Federal-aid primary system highways on April 5, 1983. These roads were to be made available to certain size trucks from April 6 until issuance of the final regulation pursuant to the requirements of the Surface Transportation Assistance Act (STAA) of 1982. By this notice, the FHWA provides modifications to the interim designated highway networks for the States of Alaska, Arizona, Florida, Louisiana, Michigan, New Jersey, Oklahoma, Rhode Island, Texas, and Virginia.

EFFECTIVE DATE: The modification are effective May 12, 1983, and will expire upon designation of the final network.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, 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 7:30 a.m. to 4:00 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On April 5, 1983, FHWA issued a policy statement (48 FR 14844) that provided an interim designation of primary system highways on which commerical motor vehicles with dimensions authorized by sections 411 and 416 of the STAA of 1982 (Pub. L. 97–424, as amended by Pub. L. 98–17) may be permitted to operate from April 6, 1983, until issuance of final regulations. The policy statement also provided that modifications to the interim designated network would be made under certain circumstances.

The designated routes in the Appendix to this notice supersede those routes designated in the April 5, 1983, policy statement. On May 3, 1983, (48 FR 20022), modifications were made in the designations for eleven States. At this time the FHWA is announcing modifications of the designations in ten additional States. Highlights of the State-by-State modifications follow.

—Alaska—Portions of AK 1 and AK 2 are removed from the interim system.

—Arizona—A portion of US 60 in Salt River Canyon has been removed.

—Florida—Since Florida has instituted an action in the United States District Court to enjoin the April 5 interim designations in that State, the FHWA is cancelling the interim designation of those primary system highways that had not been designated by the State. The agency will address the interim designation for qualifying primary system highways in Florida in a proceeding, which will be instituted in the near future.

—Louisiana—Portions of Routes US 71 and LA 1, which were designated by the State, were inadvertently excluded from the April 6 listing and are now included.

—Michigan—Portions of MI 50 and MI 52 are removed from the interim system.

—New Jersey—Routes US 206 and NJ 15 have been removed from the interim system. Portions of US 9 have been deleted and US 130 and NJ 109 added to the interim system.

—Oklahoma—Several corrections and additions have been made.

—Rhode Island—Routes RI 114, US 6, and RI 138 have been deleted from the interim system and changes made in the designation of RI 78.

—Texas—Several corrections to the April 5 designation have been made.

—Virginia—Effective May 3, 1983, and until July 1, 1983, or further notice, commercial motor vehicles with dimensions authorized by the STAA may operate on the highways designated in the April 5, 1983, policy statement (48 FR 14844) and all other Federal-aid primary highways in the State only when granted a special permit by the State. The State of Virginia shall issue a special permit without charge and within 24 hours of application. The denial of any application will specifically set forth the geometric or structural reasons upon which the denial is issued. Granting of special permits shall not be unreaonably denied. Applications for the special permit and further information may be obtained by calling the Virginia Department of Highways at (804) 786–2787, or by writing to the following address: Mr. C. O. Leigh, State Maintenance Engineer, Virginia Department of Highways and Transportation, 1221 East Broad Street, Richmond, Virginia 23219. When requesting a permit, applicants must provide the following information:

- Name and address of company or individual making request.
- License number of trailer or vehicle to be placed on permit.
- Origin and destination of the vehicle, including the routing of the vehicle while in Virginia.

No permits are required for the Interstate highways system in Virginia.

In the April 5, 1983, Policy Statement, and the May 3, 1983, Notice of Modification we indicated that a notice of proposed rulemaking (NPRM) for the final system would be published. The continuing discussions with several States have been helpful but have necessitated a delay in our anticipated schedule. The NPRM will be published in the near future, but at this time we are unable to estimate a publishing date. In the interim, we would again call attention to the Docket established in the February 3 Policy Statement (48 FR 5210) and we would encourage interested parties to continue to forward comments to that Docket.

Issued on: May 10, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

BILLING CODE 4910-22-M

ALASKA

Posted Route No.	From	To
AK 1	Anchorage	Palmer
AK 2	Fairbanks	Delta Jct.
AK 3	Palmer at Jct. AK 1	Fairbanks at Jct. AK 2

ARIZONA

Posted Route No.	From	To	Miles
AZ 360	I-10 Phoenix	AZ 87 Mesa	7.4
US 60	I-10 Brenda	I-17 Phoenix	129.4
US 60	AZ 87 Mesa	Globe	72
AZ 69	US 89 Prescott	I-17	33.5
US 70	US 60 Globe	New Mexico St. Line	122
US 80	AZ 92 Bisbee	New Mexico St. Line	71.7
AZ 84	I-10 Picacho	AZ 87	0.7
AZ 85	I-8 Gila Bend	I-10	36.5
AZ 85	I-10 Avondale	I-17	13.5
AZ 87	AZ 84 Picacho	AZ 387	25.6
AZ 87	AZ 93 Chandler	US 60	14.4
AZ 93	I-10	AZ 87 Chandler	6.6
AZ 187	I-10	AZ 387	0.3
AZ 287	AZ 87 Coolidge	US 89 Florence	9.7
AZ 387	AZ 187	AZ 87	6.9
US 89	I-10 Tucson	US 60	85.5
US 89	AZ 69 Prescott	I-40	49.9
US 89	I-40	Utah St. Line	138
AZ 90	I-10	AZ 92 Sierra Vista	32.2
AZ 92	AZ 90 Sierra Vista	US 80 Bisbee	33.8
US 95	Mexican Border	I-8 Yuma	24.3
US 160	US 89 Tuba City	New Mexico St. Line	159.4
AZ 169	AZ 69 Dewey	I-17	15.1
AZ 189	Mexican Border	I-19 Nogales	3.9
AZ 504	US 160	New Mexico St. Line	4.2
US 666	I-10	US 70 Safford	33.5
US 666	US 60	I-40	89
US B-666	Mexican Border	US 80 Douglas	1.1
US 163	US 160 Kayenta	Utah St. Line	24
US 77	US 60	I-40	47
US 60	US 60	I-40	47

FLORIDA

Posted Route No.	From	To
FL 202 J. Turner Butler Blvd.	I-95 in Jacksonville	San Pablo Road

LOUISIANA

Posted Route No.	From	To
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 Monore
LA 28	LA 8 near Leesville	US 84 near Archie
US 65	Mississippi St. Line	LA 15 Clayton
US 65	I-20 in Tallulah	Arkansas St. Line
US 71	US 190 near Krotz Springs	US 165 in Pineville
US 71	LA 1 near Shreveport	Arkansas St. Line
US 79	LA 7 in Minden	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 Poydras
LA 45	US 90 Bus. in Marrero	LA 3134 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
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.	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	I-10 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

Posted Route No.	From	To
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
LA 1	South of Plaquemine	US 190 north of Port Allen
LA 1	South Alexandria	US 167 Alexandria
US 71	LA 612 in Curtis	I-20 in Bossier City

MICHIGAN

Posted Route No.	From	To
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-96 near Grand Rapids	MI 25 Port Huron
US 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	Manistee
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
MI 37	MI 55	US 31 and MI 72 Traverse City
MI 37	I-96 Grand Rapids	MI 46 Kent City
MI 38	US 45	US 41 Baraga
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	South of US 127	I-75
MI 50	North of US 127	I-94

Posted Route No.	From	To
MI 51	Niles	I-94
MI 52	Ohio St. Line	US 12
MI 52	I-96	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, US 141 Crystal Falls	MI 95 Sagola
MI 72	I-75	US 23 Harrisville
MI 78	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-696	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
US 127	Ohio St. Line	US 27
US 131	Indiana St. Line	US 31 Petoskey
US 141	Wisconsin St. Line	US 41, MI 28
MI 142	MI 25	MI 53
MI 205	Indiana St. Line	US 12
US 223	US 23	US 12

Posted Route No.	From	To
US 9	Lewes Ferry	Jct. NJ 109
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 in Atlantic City	NJ 42 Turnersville
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 6 Mansfield
NJ 38	NJ 34 Wall	NJ 35 Belmar
NJ 18	US 1 New Brunswick	NJ 36 Eatontown
US 1	Pennsylvania St. Line	I-95 Edison
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 Raritan	I-78 Newark
US 202	Pennsylvania St. Line	I-287 Raritan
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
US 130	I-295 Bordentown	I-195 Hamilton
NJ 109	US 9	Garden State Parkway
US 9	Garden State Parkway access at Swainton	Jct. NJ 83 at Clermont

The following two sections of the New Jersey Turnpike are part of the Interstate System, but are unsigned. We are publishing this since the public may be unaware of this.

New Jersey Turnpike	Pennsylvania St. Line	Exit 6 Mansfield
New Jersey Turnpike	Exit 6 Mansfield	Exit 10 Edison

OKLAHOMA

Posted Route No.	From	To
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 59	OK 10 Welch	Kansas St. Line
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	OK 8 Alfalfa County
US 64	US 81 Enid	I-35 Noble Co.
US 64	OK 99 Pawnee County	US 69 Muskogee
US 66	US 69 Commerce	Kansas St. Line
US 62	US 69 Muskogee	Arkansas St. Line
US 70	US 81 Waurika	Arkansas St. Line
US 81	Texas St. Line	Kansas St. Line
US 83	OK 3 Bryan's Corner	Kansas St. Line
US 75	Texas St. Line	Kansas St. Line
US 169	I-244 Tulsa	Kansas St. Line
US 177	US 70 Dickson	US 60 Ponca City
US 69	US 75 Atoka	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	OK 5 Walters	Kansas St. Line
US 271	OK 3 Antlers	Arkansas St. Line
US 283	Texas St. Line	Kansas St. Line
US 287	Texas St. Line	Colorado St. Line
OK 3	US 54 Guymon	US 177 Shawnee
OK 3W	US 177 Asher	OK 99 Ada
OK 3	OK 99 Ada	Arkansas St. Line
OK 15	US-283 Shattuck	US-64 Enid
OK 33	US 183 near Custer City	Arkansas 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	US 77 north of Ponca City
OK 11	OK 99 Osage County	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 8 Fairview
OK 5	US 183 Frederick	OK 53 Walters
OK 67	US 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	OK 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 Tabler	OK 3W Asher
OK 44	US 283 Greer Co.	9 Lonewolf
OK 53	OK 5 Walters	US 81 Comanche
OK 36	OK 5 Tilman Co.	US 281 near Lawton
OK 18	OK 51 Payne Co.	US 60 Osage Co.
OK 1	OK 7 Johnston Co.	US 270 Calvin
OK 20	OK 11 Skiatook	US 75 Tulsa County
OK 48	I-44 Bristou	US 64 Pawnee Co.
OK 51	I-35 Payne Co.	Muskogee Turnpike/ Tulsa County
OK 51	Muskogee Turnpike Wagoner County	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
Museogee Turnpike	OK 51 Broken Arrow	I-40 Webers Falls
US 271	Texas St. Line	US 70 Hugo
Indian Nation Turnpike	US 70 Hugo	I-40 Henryetta
Cimarron Turnpike Connection	US 77 north of Stillwater N.E.	Cimarron Turnpike

RHODE ISLAND

Posted Route No.	From	To
RI 78	RI 3	US 1 near Westerly
US 1	RI 78 near Westerly	RI 4 Allenton
RI 4	US 1 Allenton	I-95 Warwick
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
RI 146	I-95 Providence	Massachusetts St. Line

TEXAS

Posted Route No.	From	To
US 59	I-35 Laredo	Arkansas St. Line at Red River
US 60	New Mexico St. Line	Oklahoma St. Line
US 62	New Mexico St. Line	Jct. US 87 Lubbock
US 67	US 87 San Angelo	Jct. US 84 Santa Anna
US 69	TX 87 Port Arthur	I-20 near Tyler
US 75	Jct. I-30 Dallas	Oklahoma St. Line
US 77	Mexico Border	I-35 Waco
US 82	US 87 Lubbock	Jct. US 277 Seymour
US 82	Jct. US 287 near Henrietta	US 75 Sherman
US 83	US 77 in Harlinger	Jct. I-35 Laredo
US 83	Jct. US 67 Ballinger	I-20 Abilene
US 84	New Mexico St. Line	I-20 near Roscoe
US 84	US 67 Santa Anna	I-35 Waco
US 87	US 67 San Angelo	I-27 in Lubbock
US 87	I-40 Amarillo	New Mexico St. Line
US 90	US 277 Del Rio	I-35 San Antonio
US 183	I-35 Austin	US 84 Goldthwaite
US 259	US 59 Nacogdoches	Oklahoma St. Line
US 277	US 277 Spur Del Rio	US 67 San Angelo
US 277	I-20 Abilene	Oklahoma St. Line
US 281	US 83 Pharr	I-37 near Three Rivers
US 290	I-10 near Mountain Home	I-610 Houston
US 287	I-40 Amarillo	I-35W Ft. Worth
US 385	I-10 Ft. Stockton	US 62 Seminole
US 285	New Mexico St. Line	I-20 Pecos
TX 19	I-30 Sulphur Springs	US 271 Paris
US 81	US 287 Bowie	Oklahoma St. Line
US 283	US 287 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
US 277 Spur	US 277 Del Rio	Mexico Border
US 271	TX 19 Paris	Oklahoma St. Line

[FR Doc. 83-12964 Filed 5-11-83; 8:45 am]
BILLING CODE 4910-22-C

Coast Guard

33 CFR Part 117

[CGD9 83-01]

Drawbridge Operation Regulations; Sheboygan River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Sheboygan, Wisconsin, the Coast Guard is revising the regulations governing the operation of the 8th Street highway bridge, mile 0.69, over the Sheboygan River in Sheboygan, Wisconsin, by permitting the City of Sheboygan to only open the draw of the 8th Street bridge every 20 minutes (10 minutes before the hour, 10 minutes after the hour and on the half-hour) from 6 a.m. to 10 p.m., Monday through Saturday; on Sundays and legal holidays, from 6 a.m. to 10 p.m., the bridge will be opened on signal. This change is being made because of an increase in both marine and land traffic. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On February 10, 1983, the Coast Guard published a Proposed Rule in the **Federal Register** (FR 6137) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated February 25, 1983. Interested parties were given until March 28, 1983, on both documents, to submit comments.

Drafting Instructions: The principal persons involved in drafting this amendment are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and LCDR J.A. Blocher, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Comments: No comments were received from the **Federal Register** or Ninth Coast Guard District Public Notice.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), at 48 FR 6137 (February 10, 1983). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted. Since this rule will better serve both land and marine traffic because the scheduled opening time is before and after the hour, instead of on the hour when vehicle traffic is heaviest, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAW BRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.652 to read as follows:

§ 117.652 Sheboygan River, Wis.; Eighth Street Bridge at Sheboygan, Wis.

(a) From May 1 through October 30, from 6 a.m. to 10 p.m., including Sundays and legal holidays, the draw shall open on signal except that: (1) From 6:10 a.m. to 7:10 p.m., Monday through Saturday, the draw need only open every 20 minutes (10 minutes after the hour, on the half-hour and 10 minutes before the hour).

(b) At all other times the draw shall open on signal if at least two hours notice is given.

(c) Public vessels of the United States, state or local government vessels used for public safety, and vessels seeking shelter from rough weather shall be passed through the draws of this bridge as soon as possible even though the closed periods are in effect.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that they can be easily read, a copy of the regulations in this paragraph together with a notice stating exactly how the representative may be reached in order to give a two hour notice during times specified in paragraph (b) of this section.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3)).

Dated: April 29, 1983.

Henry H. Bell,

Rear Admiral, U. S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-12777 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Hampton Roads, VA, Regulation 83-08]

Safety Zone Regulations; Elizabeth River, Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard has established a safety zone in the Elizabeth River, Portsmouth, Virginia. The zone is needed to protect watercraft and their occupants from possible damage during the transit and placement of submerged sections of the new tunnel from Portsmouth to Norfolk, Virginia, and will be effective whenever such transit or placement occurs. Entry into this zone during effective times is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 7:00 PM, Eastern Daylight Savings Time, 29 April 1983. It terminates when tube "F" of the new Portsmouth to Norfolk tunnel has been placed, or on 1 October 1983, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. Six, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants.

Drafting Information

The drafter of this regulation is Lieutenant Commander W. K. Six, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the transit and placement of the tunnel sections, no watercraft will be permitted to enter, remain in, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF-FM channels 16 and 13. This action is necessary due to the hazards

involved in moving a large fabricated tunnel section in a restricted waterway such as the Elizabeth River, which movement will effectively close the navigable channel. This rule is in response to a request by the Jones-Schiavone Construction Company for Coast Guard assistance in providing traffic control and vessel escorts for the transit and placement of the tunnel sections. This action is designed to prevent damage to watercraft and injury to their occupants in the event of collision with a tunnel section or construction equipment and will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T519 to read as follows:

§ 165.T519 Safety Zone: Elizabeth River, Portsmouth, Virginia.

(a) *Location.* The waters of the Southern Branch of the Elizabeth River within a 500 yard radius of the Jones-Schiavone Company lay-barge, in approximate position 36–50–12N, 76–17–40W, constitute a safety zone whenever the Jones-Schiavone Construction Company is moving or placing a fabricated section of the new Portsmouth to Norfolk tunnel. This safety zone will commence at 7:00 PM, Eastern Daylight Savings Time, 29 April 1983, and will terminate when tube "F" of the tunnel has been placed, or on 1 October 1983, whichever occurs first.

(b) The Coast Guard Marine Safety Office, Hampton Roads, Virginia will notify the maritime community of periods when this safety zone will be effective through Notice to Mariners and other normal means of notification.

(c) *Regulations.*—(1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: April 29, 1983.

D. C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, U.S. Coast Guard.

[FR Doc. 83-12778 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AW035PA; A-3-FRL 2340-3]

Approval of Revision to the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves alternative emission reduction plans (bubbles) for boilers at three sources in Pennsylvania. These bubbles allow for more economical operation of the boilers with no degradation of air quality. The Pennsylvania Department of Environmental Resources (DER) requested the approval of these bubbles in a letter of June 8, 1982. These bubbles were proposed in a **Federal Register** notice of September 29, 1982 (47 FR 42760).

DATE: Effective on June 13, 1983.

ADDRESSES: Copies of the SIP revision are available for inspection during normal business hours at the following locations:

U.S. EPA, Air Programs and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Gary L. Triplett

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address listed for U.S. EPA above, or at (215) 597–8309.

SUPPLEMENTARY INFORMATION: DER held a public hearing on these bubbles on June 17, 1982. EPA proposed approval of these bubbles on September 29, 1982 (47 FR 42760) in a concurrent processing procedure. No significant changes were made and no comments were received which significantly affected the approvability of these bubbles.

The bubbles involve several boilers at each of three plants in Pennsylvania. At each plant, one or two boilers will burn natural gas to offset higher emissions of sulfur dioxide from the remaining boilers. No net increases in emissions will occur at any plant. In addition, the emission points are located close together and the emissions increases will occur at sources with equal or higher effective plume heights. Therefore, no modeling was required for any of these bubbles.

These bubbles are being approved for the Scott Paper Company in Chester, Pa., Arbogast and Bastian, Inc., in Allentown, Pa.; and J. H. Thompson, Inc., in Kennett Square, Pa. Details of each of these bubbles were noted in the **Federal Register** of September 29, 1982, proposing approval of these bubbles. For more information, see this notice.

EPA has reviewed these bubbles according to the proposed Emissions Trading Policy of April 7, 1982, 47 FR 15076, and is today approving these bubbles.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit court by July 11, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

Authority: 42 U.S.C. 7401–7642.

Dated: May 4, 1983.

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

Lee L. Verstandig,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart NN—Pennsylvania

1. In § 52.2020, (c) (54) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(54) Revisions submitted by the Commonwealth of Pennsylvania on June 8, 1982 consisting of alternative emission

reduction plans for Scott Paper Company in Chester, Pa., Arbogast and Bastian, Inc., in Allentown, PA, and J. H. Thompson, Inc., in Kennett Square, PA.

[FR Doc. 83-12727 Filed 5-11-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. G-47]

Use of Cash To Procure Emergency Passenger Transportation Services Costing More Than $100

AGENCY: Office of Plans, Programs, and Financial Management, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation revises the Federal Property Management Regulations to grant agency heads or their designated representatives authority to approve emergency cash purchases of passenger transportation services exceeding $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR). This revision will eliminate the requirement for agencies to request a written exemption from the Administrator of General Services for the emergency cash purchase of transportation services exceeding $100. Removing this restriction will reduce the administrative burden on Federal agency heads and GSA.

DATES:

Effective date: May 12, 1983.

Expiration date: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Background

A notice of proposed rulemaking was published in the **Federal Register** of March 30, 1982 (47 FR 13387), inviting comments from interested parties. The proposed rule transferred from GSA to Federal agencies authority to approve cash purchases of passenger transportation services exceeding $100. Subsequent to that notice, GSA has received increasing numbers of exemption requests involving not only cash purchases in excess of $100, but apparent violations of Government travel regulations. Some of these violations have been on a recurring basis. This leads us to believe that certain agencies may be abrogating their travel management responsibilities. It would not be prudent to entrust such agencies with the broad exception authority of this proposed rule. Accordingly, we have decided not to implement the proposed rule, but to adopt this temporary regulation which is of more limited scope. This temporary regulation permits agency heads or their designated representatives the flexibility to approve emergency cash purchases of passenger transportation services exceeding $100 but requires GSA approval for non-emergency situations. The temporary regulation also establishes procedures by which GSA may review and audit both emergency and non-emergency cash purchases of transportation exceeding $100.

(31 U.S.C. 3726; Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

April 20, 1983.

Federal Property Management Regulations Temporary Regulation G-47

To: Heads of Federal agencies

Subject: Use of cash to procure emergency passenger transportation services costing more than $100

1. *Purpose.* This regulation revises the Federal Property Management Regulations to grant agency heads or their designated representatives the authority to approve emergency cash purchases of passenger transportation services costing more than $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires 2 years from date of publication in the **Federal Register.**

4. *Applicability.* This regulation applies to all Government agencies that are subject to the audit authority of GSA under 31 U.S.C. 3726.

5. *Background.* FPMR Amendment G-43, July 6, 1977, transmitted Part 101-41 to establish the policy and procedures governing the documentation and audit of payments for domestic and foreign freight and passenger transportation services furnished for the account of the United States. Section 101-41.203-2 of the regulation contains information pertaining to the use of cash to procure passenger transportation services. Normally, the GTR is used for the procurement of such services; however, agencies have the option of requiring travelers to use cash instead of GTR's where the passenger transportation services cost more than $10 but do not exceed $100 for each authorized trip. Cash may not be used for passenger transportation services that cost over $100 unless exempted in writing by the Administrator of General Services. This revision will eliminate the requirement for agencies to obtain a written exemption from GSA for emergency cash purchases of transportation.

6. *Revised policy.* Section 101-41.203-2 is revised to read as follows:

§ 101-41.203-2 Use of cash.

(a) Cash shall be used to procure all passenger transportation services costing $10 or less, exclusive of Federal transportation tax, and to pay air excess baggage charges of $15 of less for each leg of a trip, unless special circumstances justify the use of a GTR or GEBAT. Agencies have the option of requiring travelers to use cash to procure passenger transportation services from, to, or between points in the United States, including Alaska and Hawaii, and its possessions or trust territories, where such services cost more than $10 but do not exceed $100, exclusive of Federal transportation tax, for each trip authorized on an offical travel authorization. GTR's shall be used to procure all passenger transportation services costing in excess of $100 unless otherwise exempted in accordance with paragraph (b) or (c) of this section.

(b) Under emergency circumstances, where the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize travelers to exceed the $100 limitation when procuring passenger transportation services.

(1) Delegation of authority for authorizing and approving the use of cash in excess of $100 for the procurement of emergency

transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances. These delegations of authority shall be made in writing and copies retained to permit monitoring of the system. These records of delegations of authority shall be available for examination by GSA auditors.

(2) To justify the use of cash in excess of $100 instead of GTR's when procuring passenger transportation services, both the Government agency head, or his or her designated representative, and the traveler shall certify on the travel voucher the reasons for this use.

(3) Subsequent to traveler reimbursement, copies of travel authorizations, ticket coupons, and any ticket refund applications, or SF 1170's, Redemption of Unused Tickets, must be forwarded for audit to the General Services Administration (BWAA/C), Attention: Code E, Washington, D.C. 20405.

(4) Travel vouchers shall be maintained in the agency to be available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see § 101–11.404–2), provides instructions for the disposal of these travel vouchers.

(5) In the absence of written authorization or approval, travel shall be purchased in accordance with policies and procedures prescribed in applicable Government travel regulations. The traveler shall be responsible for all additional costs involved for this travel, such as the use of foreign-flag carriers, first-class travel, or more costly modes. The traveler should be aware that the use of a GTR may be required to obtain certain discount fares and to comply with the mandatory provisions of FPMR Temporary Regulations (A Series) governing the use of contract airline service between designated city-pairs. Cash shall not be used to circumvent the regulations governing airline city-air contracts.

(c) Under non-emergency circumstances, where use of a GTR is possible, heads of agencies, or their designated representatives, may request an exemption from the Administrator of General Services.

(1) Requests must be made in writing, may only be for individual travel itineraries, and must fully explain why an exemption should be granted. Simple traveler convenience will not be cause for GSA approval. For the purpose of performing a fare audit, requests must also include copies of travel authorizations, ticket coupons, and any ticket refund applications, or SF 1170's associated with the travel in question.

(2) Travelers may not be reimbursed for non-emergency use of cash to procure passenger transportation services costing more than $100 unless written approval is granted by GSA.

(d) Suspected travel management errors and/or misroutings which result in higher travel costs to the U.S. Government will be reported to the appropriate military or civil agency travel manager for corrective action with the violating agency.

(e) Agencies shall not impose a financial hardship on travelers by requiring their use of personal funds to purchase the services set forth in paragraph (a) of this section but shall provide the funds through travel advances.

(f) Travelers using cash to purchase individual passenger transportation services shall procure such services directly from carriers and shall account for those expenses on their travel vouchers, furnishing passenger coupons or other evidence as appropriate in support thereof. Moreover, travelers shall assign to the Governmnent the right to recover any excess payments involving carriers' use of improper rates. That assignment is preprinted on the travel voucher and shall be initialed by the traveler.

(g) Travelers using cash to procure passenger transportation services shall be made aware of the provisions of § 101–41.209–4 concerning a carrier's liability for liquidated damages because of failure to provide confirmed reserved space. Also, travelers using cash shall adhere to the regulations of the General Accounting Office (4 CFR 52.2) regarding the use of U.S.-flag vessels and air carriers. (See § 101–41.203–1(b).)

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-12736 Filed 5-11-83; 8:45 am]

BILLING CODE 6820-34-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51–4

Workshop Responsibilities

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped

ACTION: Final rule.

SUMMARY: The Committee amends its regulations (a) to require workshops to comply with the applicable compensation and employment standards prescribed by the Secretary of Labor and (b) to clarify the requirement that workshops must pay to their central nonprofit agencies the fee specified in § 51–3.5.

EFFECTIVE DATE: May 12, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 15, 1983, the Committee published a proposed rule (48 FR 6728) to amend § 51–4.3 of 41 CFR 51–4. The background and reasons for the changes were described in the notice announcing the proposed rule.

One comment was received on the proposed rule indicating that it was an attempt to impose regulations retroactively. The commenter recommended a number of additional amendments in Parts 2 and 3 of the Committee's regulations. As indicated in the background discussion on the proposed rule relating to the payment of the central nonprofit agency fee, the purpose of the proposed change was to clarify the long-standing requirement that participating workshops must pay to their central nonprofit agencies the fee specified in § 51–3.5, and, therefore, the requirement to pay the fee already exists. The additional changes recommended by the commenter, while related to the subject of the central nonprofit agency fee, are not appropriate for consideration in connection with these proposed changes. They may be appropriate for consideration as separate actions at a later time.

Another commenter stated that the proposed change pertaining to the requirement for workshops to pay a central nonprofit agency fee was not a "clarification" but a new provision of the regulations. As indicated in the discussion on the proposed rule, the requirement regarding the payment of central nonprofit agency fees has been in effect for participating workshops since 1938.

A third commenter questioned the proposed changes on the basis that there are no statutory provisions in the Committee's Act (41 U.S.C. 46–48c) which specifically address compliance with employment and compensation standards or payment of central nonprofit agency fees. As indicated in the discussion of the proposed rule, workshops participating in the Committee's program are required by

other statutes to meet the compensation and employment standards prescribed by the Secretary of Labor. Under the proposed rule, when the Department of Labor notifies the Committee that a workshop is not in compliance with the employment or compensation standards established by the Secretary of Labor, the Committee will have the authority to limit or withdraw that workshop's authorization to produce commodities or provide services under its Act. This change would preclude the incongruous situation of a workshop's being permitted to continue receiving benefits under the Committee's program while failing to comply with the standards prescribed by the Secretary of Labor regarding the pay or working conditions of its blind or other severely handicapped employees. The Committee's Act (41 U.S.C. 47(c)) requires the Committee to designate one or more central nonprofit agencies. The Act also authorizes the Committee to "make rules and regulations regarding * * * such matters as may be necessary to carry out the purpose" of the Act (41 U.S.C. 47(d)(1)). The change regarding payment of central nonprofit agency fees ensures the continued financial support the central nonprofit agencies require in order for them to carry out their functions as defined by statute and regulation. Both of the proposed changes are clearly necessary to carry out the purposes of the Act.

Two comments were received endorsing the changes and one inquiry was received regarding the Committee's role in enforcing compliance with compensation and employment standards set by the Secretary of Labor. The correspondent was informed that the Committee would not be involved in enforcing compensation and employment standards, since, by law, such enforcement is the responsibility of the Secretary of Labor.

I certify that this is not a major rule under Executive Order 12291 and would not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 41 CFR Part 51-4

Government procurement.

Accordingly 41 CFR Part 51-4 is amended as follows:

PART 51-4 —[AMENDED]

1. Section 51-4.3 is amended by revising (a)(5) and adding a new paragraph (a)(8) to read:

§ 51-4.3 Responsibilities.

(a) * * *

(5) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor.

* * * * *

(8) Upon receipt of payment by the Government for commodities produced or services provided under the Act, pay to the central nonprofit agency the fee specified by § 51-3.5.

* * * * *

(41 U.S.C. 46-48c)

C. W. Fletcher,

Executive Director.

[FR Doc. 83-12750 Filed 5-11-83; 8:45 am]

BILLING CODE 6820-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[Gen. Docket No. 80-183; RM-2365; RM-2750; RM-3047; RM-3068; FCC 83-146]

Allocation of Spectrum in 928/941 MHz Band and Establishment of Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has issued its *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. The non-network paging issues were resolved in the *Memorandum Opinion and Order on Reconsideration* (Part 1), FCC 82-503, released November 16, 1982. This Order adopts the rules and policies for the implementation of network paging in the 900 MHz band. On reconsideration, the Commission has allocated all three frequencies for nationwide paging and it has adopted a two-step regulatory process in which one carrier or group of carriers will be licensed on each network frequency with the responsibility for organizing the network and then local carriers can affiliate with a network organizer by adhering to its proposal. In addition, the Commission has preempted state authority over technical standards, entry, and rate regulations for the three network frequencies.

EFFECTIVE DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632-6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

Memorandum Opinion and Order on Reconsideration (Part 2)

In the matter of amendment of Parts 2 and 22 of the Commission's rules to allocate spectrum in the 928-941 MHz band and to establish other rules, policies, and procedures for one-way paging stations in the Domestic Public Land Mobile Radio Service; General Docket No. 80-183; RM-2365, RM-2750, RM-3047, RM-3068.

Adopted April 7, 1983.

Released: May 4, 1983.

By the Commission. Commissioner Jones concurring in the result; Commissioner Fogarty absent.

I. Preliminary Statement

1. We have before us informal comments and four petitions for reconsideration [1] of our *First Report and Order* (the *Order*) in General Docket 80-183, allocating three MHz of spectrum from 929 to 932 MHz for private radio and common carrier one-way paging systems.[2]

2. On November 16, 1982, we released a *Memorandum Opinion and Order on Reconsideration (Part 1)*, FCC 82-503, resolving issues pertaining to the local, non-network frequencies and deferring reconsideration of network (regional or nationwide) issues to a subsequent Order. With respect to the non-network frequencies, we affirmed the requirement of need showings for existing carriers requesting an additional paging frequency, and we adopted a fixed forty-mile separation criterion for purposes of determining whether an applicant is entitled to an initial or additional paging frequency without demonstrating need. We also waived the submissions of topographic maps and profile graphs with 900 MHz paging applications.

3. We now address issues which pertain to the network frequencies. All four petitioners request that we change the network policies and procedures adopted in the *First Report and Order*. Page America and UTS also request that we preempt state authority over

[1] Petitions were filed by Telocator Network of America (Telocator); Mobile Communications Corporation of America (MCCA); Page America Communications, Inc. (Page America); and Beep-Beep Page, Inc. (Beep-Beep Page). Informal comments were filed by American Telephone and Telegraph Company (AT&T) and United Telephone System, Inc. (UTS).

[2] 89 FCC 2d 1337.

technical, entry, exit and rate regulations for the three network frequencies. We agree with the petitioners that certain changes are necessary and will better serve the public interest. Therefore, as discussed below, we have decided to alter the regulatory framework for network paging and preempt state authority for the three network frequencies.

II. Background

A. Current Network Paging Policy and Procedures

4. In our *First Report and Order*, we allocated three frequencies for common carriers to use to provide inter-city network paging.[3] An inter-city network paging system would enable a subscriber to receive pages when outside his local service area. If the subscriber travels to an area that is part of an inter-city system, he could be paged through the radio common carrier (RCC) or wireline carrier in that area.

5. Of the three network frequencies, one was restricted to nationwide use and the other two were designated for either nationwide and/or regional paging. Extended cut-off procedures (six months from public notice of the first filing on a channel) were adopted for all three channels, with a single date applicable to the nationwide-channel and different dates applicable for each region on the regional channels.

6. In addition, because of the limited frequencies devoted to network paging, we decided to require network licensees to share these frequencies instead of licensing only one applicant on a frequency. In an effort to encourage sharing agreements, we determined that applicants must reach unanimous agreement as to the method of interference-free use and technical operation of the frequencies within one year, or all applications would be rejected and those applicants would be barred from reapplying for those frequencies for one year. We also decided to prohibit local paging on the network frequencies. However, if after a three-year period the non-network frequencies were exhausted, any nonassigned network frequencies could be applied for and use for local paging.

B. Pleadings

7. The petitioners request numerous changes in the regulatory framework for network paging. MCCA and Telocator argue that all three frequencies should be designated for nationwide use, since a nationwide network has the capacity to service both nationwide and regional demand. Telocator and MCCA claim that under our present allocation, the Commission will simultaneously receive both regional and nationwide applications for each frequency. They argue that this will create severe practical and regulatory problems and will only complicate the applicants' task of reaching unanimous agreement as to interference-free sharing of the frequencies. Moreover, MCCA asserts that with the Commission's recent lowband frequency allocations, licensees have already assembled many regional paging systems and do not need frequencies exclusively for that purpose.

8. All four petitioners reject the unanimity concept as unrealistic and unworkable. They argue that it is unrealistic to assume that applicants will voluntarily resolve the complex technical, financial and managerial problems associated with network paging. MCCA, Telocator and Page America emphasize the distinctions between licensing considerations and the technical decisions involving signaling format and network protocol. They argue that it is unreasonable to expect applicants with differing goals and interests to agree unanimously to all aspects of network paging operation. Moreover, the petitioners claim that the unanimity requirement will encourage obstructionists or applicants wishing to obtain unwarranted concessions from those seriously interested in providing network paging to the public.

9. Telocator and MCCA also object to the cut-off procedures adopted in the *First Report and Order*. They argue that the 180 day cut-off period gives applicants who are seriously interested in providing network paging a short period to prepare applications, while "me too" applicants or obstructionists are given twice as long to prepare mutually exclusive applications. Further, MCCA claims that the cut-off procedures will result in smaller cities receiving network service on a much delayed schedule because time and economics will force applicants to first file applications for network paging authority in major markets. Thus, applicants who fail to file for the smaller cities and towns initially will be precluded from doing so for the entire year that the applicants negotiate organization of the network.

10. Further, MCCA and Page America assert that the cut-off period coupled with a three year reversion for local paging will be the death knell of network paging. MCCA claims that at least one year-and-a-half will be required to complete one cycle of network paging applications: 180-day cut-off period, followed by one year of negotiation. Since MCCA believes that network paging will be provided first to major markets and will progressively spread to smaller communities, it is concerned that it might take two cycles, or more than three years, for smaller communities to obtain network paging. Therefore, since petitioners believe that allowing local paging on network frequencies would frustrate this service, they are concerned that smaller communities might never obtain nationwide paging.

11. All four petitioners propose alternative regulatory schemes for the network frequencies. Beep-Beep Page, Inc. suggests that we adopt a plurality proposal similar to that implemented in Docket 21039, 77 FCC 2d 212, 215 (1980).[4] Page America suggests a two level approach. It claims that on one level the local licensees of nationwide paging frequencies should agree upon a method of coordinating interference-free sharing of the frequencies, and on a second level agreement should be reached among the managers of the network services.[5] It proposes that we issue construction permits to qualified applicants soon after the cut-off date and condition the permits on the establishment of a frequency sharing plan. With respect to the network managers, Page America suggests that we not require them to cooperate with one another, or file any applications with the Commission since the network plan will be included with the affiliate's applications. It also recommends that the carriers licensed on the nationwide paging frequency be allowed to affiliate with more than one manager.

12. Telocator recommends a "hybrid" form of rulemaking. It suggests that all applicants desiring to operate inter-city networks submit applications pursuant to Section 214 of the Act,[6] containing

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[3] The three common carrier frequencies allocated for network paging service are 931.8875, 931.9125 and 931.9325 MHz. See revised 47 CFR 22.501(p)(1), in Appendix A of this Order.

[4] Under a plurality plan, if unanimous agreement as to technical coordination is not reached by a certain deadline, the plan supported by the largest group of applicants that reach an agreement would be placed on public notice and opened to comments. Subsequently, the Commission can adopt the plurality plan if it is found to be reasonable and non-discriminatory. All pending applications could then be amended to comply with the accepted form of technical coordination.

[5] Page America's proposal is vague. It does not explain who the "Managers" are, or what they should agree to and why.

[6] Although AT&T concurs with Telocator's hybrid rulemaking approach, it states that Section 214 applications are not necessary because the radio license granted under Title III of the Communications Act carries with it Section 214 authority if the lines constructed and operated are the same as those that would be the subject of a Section 214 application. Communications Satellite

information including applicant's legal, technical and financial qualifications; its sharing concept; its ability to initially serve 30 metropolitan areas and expand nationwide; and its ability to accommodate both nationwide and regional service on one frequency. The Commission would then issue a public notice listing qualified applicants. The public notice would trigger 30-day periods for comments and reply comments, which would culminate in the Commission's adoption of rules and policies for initiation of inter-city service and licensing of network stations. Telocator states further, that if a negotiated settlement is not reached for operating on the three network channels, the Commission should select the plurality proposal which best serves the public interest, convenience and necessity.

13. MCCA proposes a two-step regulatory process, in which the problem of organizing each channel is solved initially and then the processing of applications for individual stations becomes routine. MCCA suggests that we distinguish between two types of network paging entities, the network organizer and the network operator. The network organizer for each channel would be an RCC or affiliated group of RCC's and would be responsible for defining the signaling format and network protocol for its channel. On the other hand, the network operator would be licensed on one of the three network channels, would interconnect with the existing network and would conform its application to the technical standards established by the network organizer.

14. In the first step, MCCA proposes that the Commission accept applications on a date certain, 90 days after adoption of the Reconsideration Order, only from applicants seeking to organize a network channel. MCCA details the information which should be included in the application. This list is similar to the information requested by Telocator in its proposal; however, it also includes the mode of operation for the network channel, types of service offered, signaling format and network interconnection scheme, and the method by which the applicant would provide open and nondiscriminatory access to the network. MCCA further suggests that if fewer than three network applications are filed, the excess channels could either revert to local use or be held in reserve. If more than three network applications are filed, and if the applicants are unable to align themselves into three groups, MCCA proposes that we conduct written hearings to select the three superior proposals. Further, approximately ninety days after selection of the three network organizers, the Commission should accept applications for the local network paging stations. Each local applicant would be free to select the network with which it wishes to affiliate.

Corp., 20 FCC 2d 405, 411 (1969); Domestic Fixed Satellite Transponder Sales, 88 FCC 2d 1419, 1424 (1982).

III. Discussion

15. We have decided to modify our network paging rules with respect to the channel designations and licensing policies and procedures. When we adopted the network policies in our *First Report and Order*, we were aware of the demand for inter-city paging, but we were unpersuaded by the proposals before us. The petitioners have outlined network proposals which differ significantly from the plan adopted in our *First Report and Order*. Moreover, two groups of experienced carriers have publicly announced proposals to establish nationwide paging systems significantly different from what was contemplated at the time of the *First Report and Order*.[7] Based upon the proposals now before us, we find that certain revisions to the regulatory framework will result in less burdensome procedures, and will lead to the establishment of more economic and efficient network paging systems. We turn first to channel designations and licensing policies, and then to application and authorization procedures.

A. Channel Designations and Licensing Policies

16. We agree with Telocator and MCCA that all three frequencies should be designated as nationwide channels.[8] In the *First Report and Order* we designated two of the three channels for nationwide or regional use in the belief that we would thereby "offer users a greater choice of service." We also expressed the view that many potential users might desire service just within a particular geographic region, such as Washington/Baltimore, rather than between regions or nationwide. However, after reviewing the petitions for reconsideration, we are persuaded that regional service can be provided on the nationwide networks and that separate regional systems on two of the channels will result in less efficient use of the spectrum and will engender difficult licensing and frequency coordination problems.

17. The regional systems we envisioned were modest expansions of the wide-area systems in existence today throughout the Northeast Corridor and other parts of the country. It is quite possible to construct a new regional system by interconnecting transmitters on a single frequency in the newly allocated 35, 43 or 900 MHz channels. In fact, a number of the hundreds of applicants for the lowband and 900 MHz channels have proposed exactly that. Our substantive requirements for network applicants, discussed below, assure that regional paging will be available to augment existing wide area service on local paging channels. Therefore, we find no need to set aside channels specifically for regional paging on the ground that such demand as may exist can readily be satisfied by both wide-area and network systems.

18. A second major change we will adopt is MCCA's proposal to license the three network channels to three common carrier "network organizers" whose services will be distributed through local "network operators" in each community. The "network organizer" will be a common carrier or group of common carriers who will organize the network, *i.e.*, determine among other things, the mode of operation, signaling format, interconnection and interference-free sharing schemes, and who will be licensed by the Commission. The "network operator" will be a local common carrier who agrees to coordinate with the technical parameters of a network organizer, and who will provide network services to its subscribers.

[7] One group consists of MCI Communications, Metromedia, Communications Industries and American Express. They propose to offer "national electronic message delivery service," primarily over MCI's long distance network and the local distribution facilities of the partners. The other group consists of MCCA and National Public Radio (NPR), which would use excess capacity in NPR's earth stations and satellite transponders for intercity distribution, with local distribution handled by any local paging company that wished to join the network. Our mention of these proposals in no way indicates our approval of them. No action has or will be taken on these proposals until they are submitted in conjunction with the procedures articulated in this Order.

[8] Local paging was prohibited on the three network frequencies in the *First Report and Order*, at para. 29. None of the petitioners requested that we allow local paging on the network frequencies and we continue to believe that local use of these frequencies could stifle their development for network use at least in the initial period of development. *But see* para. 25, *infra*. Nevertheless, once the network frequencies are licensed and in operation, economic or operational efficiency may militate in favor of loosening the absolute prohibition against local service. We will entertain requests from the three network licensees to provide local paging as long as it can be offered without displacing or otherwise reducing the quality of service to nationwide customers.

19. We believe, based on the information before us at this time, that this "carrier's carrier" approach is the easiest and most effective way to implement network paging. Unlike the plan adopted in our *First Report and Order* or the proposal submitted by Telocator, Page America and Beep-Beep Page, MCCA's plan no longer relies on interference-free sharing arrangements among potential competitors (whether by unanimity or plurality agreement) as prerequisites to network implementation. This eliminates the complicated and time-consuming cut-off procedures and negotiation periods associated with sharing arrangements. One licensee will be responsible for organizing each network and detailing the legal and financial arrangements and technical parameters of the system. We are hopeful that licensing three separate network organizers—as opposed to requiring sharing among all or a plurality of applicants—will foster technically diverse, competitive networks to the benefit of the public.

20. Under this structure, we tentatively find that the "network operators" should be afforded open and nondiscriminatory access to the network paging systems. In essence, there will be three intercity network systems whose services will be retailed through local outlets. Under our previous plan, the issue of nondiscriminatory access was insignificant because anyone who wanted to participate in nationwide service had an opportunity to share a frequency. Now that we will choose only three network licensees from a potentially large number of mutually exclusive applicants, there appears to be justification for ensuring the right of local operators to feed traffic into the networks and to participate in the distribution of traffic originating outside their service areas to the extent that it is technically feasible. If we do not, the network organizers will theoretically be able to select individual local operators, to exclude all local participants except those already affiliated with the network organizers, or to give their affiliates and subsidiaries favored treatment. We tentatively find that ceding such comprehensive control over local operation to the three organizers would not be in the public interest.

21. On the other hand, affording local carriers open and nondiscriminatory access, provided they agree to abide by the network organizer's technical specifications, will encourage competition at the local level and will increase the diversity of user choices. We also foresee benefits to paging subscribers in smaller cities and towns who will be able to obtain access to a network through a local paging company which might not otherwise have chosen to participate in the network under our previous plan for sharing. In sum, we believe the plan advanced by MCCA, with some modifications, is preferable to any other plan we have considered in terms of expediting service to the public, fostering competition in the provision of network services, and reducing the administrative burdens on the applicants and the Commission.

22. Our network licensing policies are only tentative at this time because we want to solicit further comment on the nondiscriminatory access feature in our companion Further Notice of Proposed Rulemaking. There may be significant operational or economic reasons, of which we are not now aware, militating against the nondiscriminatory access requirement. It may also be that nondiscriminatory access is not necessary to assure a competitive environment for nationwide paging because substitutable services will be available to consumers. These substitutes could influence the three network licensees to offer and price their services competitively in the absence of nondiscriminatory access, which is, after all, nothing more than unrestricted resale of network service. We do not, however, want to delay the licensing process while we continue to consider the access question. Accordingly, applicants should prepare their applications based on the assumption that the policies stated here will become final. Should we later decide not to require nondiscriminatory access, we will allow those who have filed timely applications an opportunity to amend. No new applications will be accepted after the cut-off date established here regardless of our disposition of the issues in the Further Notice.

B. How the System Works

23. As presently conceived, nationwide paging works fairly simply. The nationwide subscriber has a telephone number assigned to him in his home area by the local carrier (network operator) from whom he takes service. When he travels, he leaves the number with persons who need to reach him, for example, his employer. The employer initiates the page by dialing the local number. The network operator recognizes the number as a nationwide paging number and sends it through terrestrial facilities to the network licensee (network organizer) at the network control center. At that point the signal is routed over the network to terminal points in every city in which the network organizer operates. (The page can also be sent to selected cities, depending upon the configuration of the network.) From there, the page is transmitted over terrestrial links to the transmitters of participating network operators and then over the air to the subscriber's paging receiver. Because nationwide and local paging do not share the same frequency, the subscriber initially has to have two pagers for local and network service. However, dual frequency pagers are now under development and should soon obviate the need for two pagers.

C. Application and Authorization Procedures

24. To effectuate the revised plan for network paging, we will adopt MCCA's two-step process, with some minor modifications. First, we will accept applications from, and license, the common carrier network organizers as set forth below. The organizers will control the use of the frequencies and will have all the rights and responsibilities under the Act and the Commission's Rules associated with such control. Second, we will accept abbreviated applications from, and authorize, the local paging companies who have chosen to participate in a network. These companies will have no right to use the frequency other than in the manner specified by the organizer. As explained below, the application form for local operators will be abbreviated, and only a minimum amount of technical information will be required.[9]

25. Those seeking to organize a network must submit their applications no later than 90 days after publication of this Order in the **Federal Register**. At the close of the 90 day period, we will review the applications to determine their acceptability for filing, and we will then issue a Public Notice announcing any mutually exclusive applications and beginning the thirty day pleading period.[10] If fewer than three applications are received, we will hold the remaining channels in reserve to revert to local use if they are not used for network paging within three years as provided in the *First Report and Order*. If more than three applications are received, as expected, and if the applicants do not align themselves into three groups under the procedures in Section 22.29 of the

[9] *See* para. 25, *infra*.

[10] Applicants should *not* designate a specific channel in their applications. All applications filed for the three network channels will be deemed mutually exclusive because we consider the channels to be fungible. *Contrast* Digital Electronic Message Service, 88 FCC 2d 1716 (1982).

Rules, the three licensees will be selected by whatever comparative selection process is in effect at the time.[11]

26. Because only three network licenses are available, we agree with MCCA that the network organizers ought to submit something more than bare-bones applications on Form 401.[12] These networks are likely to be complex and expensive to organize and construct, so it is important for us to examine financial and technical ability in evaluating the applications. Furthermore, to insure that the networks are truly nationwide in scope, we find that there should be a minimum number of communities served from the initiation of service. Telecator suggested 30 cities, but we believe that may be too many considering this is a new service with which no one has any experience. We find instead that it is reasonable to require each applicant initially to propose to serve at least fifteen metropolitan areas of its choice, and to submit its plans demonstrating how it will expand service nationwide [13] within two years of the start of service. We will define "metropolitan areas" as the Standard Metropolitan Statistical Areas (SMSAs) listed in the U.S. Department of Commerce's Statistical Abstract of the United States—1981 (102 Ed.) at pp. 920–925. We do not anticipate updating this SMSA list or accepting markets from any other source.[14] The following is a summary of the information that must be filed as part of the application:

(a) The applicant's projected costs of organizing and constructing the network and its technical and financial ability to start up and operate the network;

(b) The proposed mode of operation and technical plan for implementing the network channel, including but not limited to the types of services offered, signaling format and network interconnection plan; [15]

(c) The method and extent to which the proposed network would provide for interference-free operation on the channel in each local area;

(d) The method by which the applicant would provide open and nondiscriminatory access to its network;

(e) The initial service proposal for at least fifteen Standard Metropolitan statistical Areas;

(f) The applicant's plans for expanding network service from its initial markets to nationwide coverage within two years from the initiation of service;

(g) A model tariff showing, among other things, how it intends to provide nondiscriminatory access to network operators;[16] and

(h) How the public interest, convenience and necessity would be served by a grant of the particular application.

27. The second stage of processing will be the licensing of the local operators on the network organizer's frequencies. Immediately after selection of the network organizers, we will begin taking applications from the local participants, the network operators.[17] We contemplate issuing a Public Notice formally establishing the opening application date; there will be no cut-off date because there is no mutual exclusivity. This licensing requirement is only necessary to insure compliance with our technical rules for transmitters and antenna structures. Accordingly, from carriers who already hold FCC licenses for paging or two-way mobile service, we will require only that pages 1 through 3 and the signature on page 6 of the Form 401 be submitted. These applicants may also omit answers to items 12, 13, 14, 15, 24, 25, 27, and 28, unless answers are needed to correct out-of-date information on file with the Commission. However, new entrants must complete the entire form to enable us to assess all of their qualifications to be Commission Licensees. One additional requirement for all applicants will be a statement on the Form 401, asserting their willingness to comply with the network organizer's technical specifications. We anticipate that this type of *pro forma* licensing will speed service to the public with a minimum of paperwork for the Commission and the applicants.[18]

D. Federal Preemption

28. In our *First Report and Order*, we decided not to preempt state authority for the 900 MHz frequencies. We concluded that since paging systems are basically local in nature, the states should not be preempted form decisions concerning entry, technical and rate regulations for paging common carriers.

29. In their petitions, Page America and UTS urge the Commission to preempt state authority with respect to entry, technical, and rate regulation for the three network frequencies.[19] Page America argues that by prohibiting local service on these frequencies we have created a new interstate communications service, and the states should be prohibited from regulating the operations on these three frequencies. It claims that without federal preemption, the development of an effective and feasible nationwide paging service will be delayed and its growth may be prevented. We believe Page America and UTS have raised valid concerns.

30. Federal preemption may occur in two instances. First, Congress may either expressly order preemption in a statute or implicity command preemption by the statute's structure and purpose. Second, valid federal regulation may preempt state law or regulation whenever the state action creates an obstacle to the implementation of the purpose of the federal regulation. *Fidelity Federal Saving and Loan Association v. de la Cuesta*, ——U.S. ——, 73 L.ED. 2d 664, 675 (1982). *See also, Florida Lime and Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 141 (1963), *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). The second situation exists in this proceeding. We have created a new nationwide communications service pursuant to our statutory authority. Because state regulation over the technical standards,

[11] We do not rule out random selection at this time; however, we anticipate receiving disparate proposals, which may militate in favor of traditional or modified comparative procedures.

[12] It is not necessary for applicants to demonstrate need for network service because we found such need when we allocated three channels in our *First Report and Order*.

[13] By "nationwide" we do not mean literally everywhere in the country. We leave it to the applicants to forecast demand for service; however, we anticipate that the scope of the network service proposed by each applicant could be a comparative criterion in awarding licenses.

[14] There are no minimum coverage areas or any similar requirements as there are in the cellular radio rules, 47 CFR § 22.901 *et seq*. Applicants need only propose at least one nationwide transmit/receive point within their chosen SMSAs.

[15] As part of the proposal, each applicant is expected to describe how it will achieve efficient use of its channel.

[16] Our approach to rate regulation is still under consideration. *See* paras. 29 and 36, *infra*. Consequently, applicants may not be able to formulate comprehensive tariff proposals by the filing deadline. We will accept model tariffs after the filing deadline as amendments to applications if we have not decided upon the method of rate regulations before then.

[17] Since our ultimate decision on access requirements will affect the licensing of local operators, we will not accept stage two applications until that question is resolved. However, if we retain the open access requirement, the network operator would be free to affiliate with any or all of the network organizers licensed, as long as it agrees to adhere to the specifics of each carrier's network paging proposal. Furthermore, there would be no requirement's as to the number of markets an individual operator may serve.

[18] These applications will be granted without a formal comparative hearing pursuant to § 22.32(b) because the applications are not mutually exclusive, nor subject to comparative consideration. The accepted applications will be listed in an informative public notice and will be subject to petitions to deny under Section 22.30 of the rules.

[19] The method and extent of our rate regulation is discussed in an accompanying Further Notice of Proposed Rulemaking. This Notice requests comments on various tariff procedures for both the network organizers and operators.

entry, and rate regulation could seriously impede the development of this service, we believe such state regulation must give way to the paramount federal interest.

31. This new nationwide paging service is being authorized pursuant to both Title III and Title II of the Communications Act of 1934, as amended. Under Title III of the Act, the Commission has broad authority to regulate all communications by radio. That authority includes the power to "classify radio stations," to "prescribe the nature of the service to be provided by each class of licensed stations," to "study new uses for radio," and to "encourage the larger and more effective use of radio in the public interest." 47 U.S.C. 303 (a), (b), and (g). Furthermore, Section 301 of the Act explicity grants this Commission sole authority to license radio facilities.[20] Under Title II of the Act, the Commission has broad authority to regulate interstate common carriers, whether or not they use radio facilities. Pursuant to Title II, the Commission regulates: (1) Entry into and exit from interstate service, (2) rates and regulations governing the offering of interstate service, and (3) interconnection between carriers for the provision of joint or "through" interstate service. 47 U.S.C. 201–105, 214. The courts have recognized a broad discretion in the Commission with respect to the manner in which it exercises its Title II powers to achieve statutory objectives.[21] Of course, the Commission's Title II authority over interstate common carriers does not extend so far as to extinguish legitimate state regulation of purely intrastate common carrier communications. 47 U.S.C. 152(b).[22] The Commission's authority over interstate common carriage, however, is comprehensive and does extend to facilities and services that might be located wholly within a single state if those facilities and services are essential or integral parts of interstate communications.[23]

32. In accordance with this statutory authority, we are creating the subject nationwide paging service. Because paging services have historically been local in nature, the states have traditionally regulated paging common carriers. Network paging, however, will be predominantly an interstate service, which may also address intrastate demands. In an effort to assure nationwide service, we have imposed two significant requirements upon any entity proposing to offer nationwide service. First, we have initially prohibited local paging on these frequencies. Although network organizers will be permitted to request permission to offer local paging on a secondary basis, such service offerings will not be the ordinary situation and will not be permitted to displace natiowide service. Second, and possibly more important, we are requiring that the three network licensees demonstrate the capability both to serve 15 SMSAs initially and to expand paging service nationwide within two years. Furthermore, in an effort to increase competition in this new market, we are tentatively requiring that the network operators be afforded open and nondiscriminate access to any or all nationwide channels. Regardless of whether that requirement is retained, it is essential to the interstate development of nationwide paging that the network organizer and its operators be afforded access to all cities and states it desires to serve. To achieve the rapid implementation of nationwide service and these policy objectives, we believe our regulation of the service must preempt state regulation with respect to entry, technical standards, and rate regulation for the three network frequencies.[24]

33. Preemption of state entry regulation is necessary for several reasons. Initially, as noted above, access for paging operators to every city and state is crucial to our network scheme. If the states restrict entry, implementation of this service will be frustrated. Depending upon how the network is organized, full nationwide coverage might be thwarted if carriers in particular cities are denied entry. State entry regulation also could delay the implementation of this new service as well as increase the carrier's expense of providing it. We realize that because this service has some intrastate characteristics the states may have an interest in how it is provided. The states, like other interested parties, may raise their concerns with this Commission whenever these entities apply for licenses.

34. We are also asserting federal primacy over technical standards for the network paging service. Nationwide operators will be required to comply with the technical parameter specified by the network organizer, including but not limited to the mode of operation, signaling format, network interconnection and method of interference free sharing. The assurance of compatible operation of equipment on an interstate and nationwide basis for the three frequencies is essential to the success of this service. State licensing requirements could add additional and possibly conflicting network technical specifications that would defeat the nationwide plan.

35. Finally, our action cannot coexist with state rate regulations of the three network organizers. The nationwide systems can be used for both interstate and intrastate communications.[25] Although the states generally regulate intrastate communications, they must stand aside when, as here, it is technically and practicably impossible to separate the two types of communications for tariff purposes.[26] Furthermore, we have issued an accompanying Further Notice of Proposed Rulemaking which solicits comments on the extent and method of rate regulation for the network operators. The scope of any preemption vis-a-vis the network operators' rates will be resolved in that proceeding.

36. We note that our preemption of state regulation in this instance is consistent with precedent. The preemptive effect of valid Commission actions over state regulation when it could interfere with interstate communications has consistently been recognized by the Courts. *Orth-Vision*, 69 FCC 2d 657 (1978), *aff'd sub nom.*

[20] In particular, Section 301 provides that "no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under and in accordance with this Act and with a license on that behalf granted under the provisions of the Act." 47 U.S.C. § 301.

[21] *E.g.*, AT&T v. FCC, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978); Philadelphia Television Broadcasting Co. v. FCC, 359 F.2d 282 (D.C. Cir. 1966); *Cf.* Computer & Communications Industry Association v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *petitions for cert. filed* (U.S. February 9 and 10 1983) (Nos. 82–1331, and 82–1352); Telocator Network of America . FCC, 691 F.2d 525 (D.C. Cir. 1982). Additionally Section 221(b) reserves to the states jurisdiction over telephone exchanges which serve single multi-state areas. North Carolina Utilities Commission v. FCC *supra* at 1045.

[22] *See* National Association of Regulatory Utility Commissioners v. FCC, 533 F.2d 601 (D.C. Cir. 1976) (NARUC II) (Opinion of Wilkey, J.).

[23] Computer & Communications Industry Association v. FCC, *supra*; People of California v. FCC, 567 F.2d 84 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1010 (1978); Puerto Rico Telephone Co. v. FCC, 553 F.2d 694 (1st Cir. 1977); North Carolina Utility Commission v. FCC, 552 F.2d 1036 (4th Cir.), *cert. denied*, 434 U.S. 874 (1977) (NCUC II). *See also* New York Telephone Co. v. FCC, 631 F.2d 1059 (2d Cir. 1980); General Telephone Co. of the Southwest v. FCC, 449 F.2d 846 (5th Cir. 1971).

[24] *See* n. 18 *supra*.

[25] For example, a nationwide system can be used to communicate intrastate from San Francisco to Los Angeles, as readily as it can be used interstate from San Francisco to New York.

[26] *See* Computer & Communications Industry Association v. FCC, supra at 215; North Carolina Utility Commission v. FCC, 537 F. 2d 787 (4th Cir.), *cert. denied*, 429 U.S. 1027 (1976); North Carolina Utility Commission v. FCC, 552 F. 2d (4th Cir.), *cert. denied*, 434 U.S. 874 (1977).

New York State Commission on Cable Television v. FCC & USA, 669 F. 2d 58 (2d Cir. 1982); *Telerent Leasing Corp.*, 45 FCC 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission v. FCC*, 537 F. 2d 787 (4th Cir.) *cert. denied*, 429 U.S. 1027 (1976). Further it is well established that the Commission may assert jurisdiction over facilities that are wholly within a single state if local services cannot be easily and practicably separated from interstate services supplied through the same facilities. *People of State of California v. FCC*, 567 F. 2d 84 (D.C. Cir. 1976), *cert denied*, 434 U.S. 1010 (1978); *North Carolina Utilities Commission v. FCC*, 552 F. 2d 1036 (4th Cir.) *cert. denied*, 434 U.S. 874 (1977).

37. In conclusion, we find that federal preemption in this case is necessary if our policies are to succeed. State regulation could impede the development and provision of this new, innovative, and primarily interstate telecommunications service.

E. Other Matters

38. In the *Memorandum Opinion and Order on Reconsideration (Part 1)*, we waived the submissions of § 22.15(j)(8) topographic maps and § 22.115 profile graphs, and we added the requirement that maps on a scale of 1:250,000 be submitted. For the sake of clarity, we have rewritten the applicable rules to reflect these changes. *See* Appendix A.

IV. Conclusion

39. This is the first time that common carrier frequencies have been devoted exclusively to nationwide inter-city paging systems. We decided to reject the burdensome and time-consuming extended cut-off procedures and unanimity sharing agreements adopted in the *First Report and Order*. We also reject the complex licensing and coordination problems associated with authorizing separate regional and nationwide networks. One network organizer will be licensed on each frequency. This licensee will have thoroughly devised a method for technical interconnection and interference-free coordination among carriers. Then any local common carrier who wishes to provide network services will be authorized to affiliate with one or more network organizers by adhering to the licensee's proposal. We believe that this two-step regulatory process is workable and will promote the Commission's goals of competition and diversification. We are confident that it will implement nationwide paging in the most efficient and expeditious manner possible

V. Ordering Clauses

40. Accordingly, it is ordered, that the petitions for reconsideration are granted to the extent set forth herein, and are otherwise denied.

41. It is further ordered, that pursuant to the authority found in Section 154(i), 301 and 303(r) of the Communications Act of 1934, as amended, Part 22 of the Commission's Rules and Regulations are amended as specified in Appendix A. These amendments shall become effective June 13, 1983.

42. It is further ordered, that applications by the applicants desiring to organize a network frequency will be accepted 90 days after this Order is published in the **Federal Register.**

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

1. 47 CFR 22.501(p) (1) and (2) are revised to read as follows:

§ 22.501 Frequencies.

* * * * *

(p)(1) For assignment to based stations of communication common carriers for use exclusively in providing a one-way signaling service (center frequency of 25 khz band).

931.0125 MHz	931.5125 MHz
931.0375 MHz	931.5375 MHz
931.0625 MHz	931.5625 MHz
931.0875 MHz	931.5875 MHz
931.1125 MHz	931.6125 MHz
931.1375 MHz	931.6375 MHz
931.1625 MHz	931.6625 MHz
931.1875 MHz	931.6875 MHz
931.2125 MHz	931.7125 MHz
931.2375 MHz	931.7375 MHz
931.2625 MHz	931.7625 MHz
931.2875 MHz	931.7875 MHz
931.3125 MHz	931.8125 MHz
931.3375 MHz	931.8375 MHz
931.3625 MHz	931.8625 MHz
931.3875 MHz	931.8875 MHz [1]
931.4125 MHz	931.9125 MHz [1]
931.4375 MHz	931.9375 MHz [1]
931.4625 MHz	931.9625 MHz [1]
931.4875 MHz	931.9875 MHz

[1] Reserved for stations engaged in providing nationwide network paging service; as provided for in § 22.527.

(2) Specification of frequency in application. (i) *Non-network:* An applicant for a new, non-network frequency in the band 929–932 MHz will not specify a frequency in its appplication. It may specify its non-network frequency preference, but the Commission is not bound by such requests. (ii) *Network:* An applicant wishing to organize a network frequency will not specify a frequency preference in its application but must make the showings required by § 22.527. The subsequent applications filed by the affiliating, local common carriers should specify the specific network channel it desires.

2. Part 22 is amended by adding new § 22.527 to read as follows:

§ 22.527 Channel assignment policies for 900 MHz one-way signaling channels reserved for stations engaged in providing network signaling service.

(a) An applicant wishing to organize a network signaling channel should not specify a particular channel in its application.

(b) The applicant shall submit to the Commission copies of agreements, if any, and system diagrams and plans illustrating how applicant proposes to utilize the desired network signaling channel. Applications filed pursuant to this paragraph must contain at a minimum the following:

(1) Technical standards describing the types of one-way communications to be provided, the signaling format under which individual receivers may be selectively signaled, and the network protocol under which all stations licensed or subsequently licensed on the desired network signaling channel may be connected or interconnected for the purposes of exchanging or delivering signaling messages for transmission by such stations.

(2) Description of how the proposed system and the technical standards described in paragraph (b)(1) of this section will not discriminate as to access, cost, or otherwise between applicant and the local operators for the desired network paging channel.

(3) Description of how the proposed network would provide for interference-free operation on the channel in each local area.

(4) Description of applicant's technical and financial qualifications to construct the proposed system and to develop and implement the technical standards described in paragraph (b)(1) of this section. Such financial qualifications shall satisfy the requirements of § 22.917.

(5) Description of how applicant with others, will provide network signaling service to at least fifteen standard metropolitan statistical areas initially and to how it will expand network services to the entire nation within two years.

(6) A model tariff showing, among other things, how it intends to provide nondiscriminatory access to network operators; and

(7) Description of how the public interest, convenience and necessity will be served by a grant of the application.

3. 47 CFR 22.15 is amended by revising (j)(8) and (j)(10) to read as follows:

§ 22.15 Technical content of applications

(j) * * *

(8) Topographic maps (see also § 22.216) showing the information set forth in paragraphs (j)(8) (i) and (ii) of this section are required in all Part 22 services except for 900 MHz one-way paging applications which is governed by paragraph (j)(8) (iii) of this section.

(i) Exact station location.

(ii) Location of radials used in determining elevation of average terrain.

(iii) Exact station location should be plotted on a map with a scale of 1:250,000 and the reliable service area should be depicted by a 20-mile radius for each base station.

(9) * * *

(10) For 900 MHz one-way applications, the profile graphs referred to in § 22.116 are not required.

* * * * *

[FR Doc. 83-12715 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 30408-54]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 4 to the fishery management plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Amendment 4 is necessary to provide sufficient amounts of fish to U.S. fishermen fishing commercially in groundfish fisheries, to take advantage of harvestable Pacific cod while they are available, and to allow foreign groundfish fleets access to narrow fishing grounds along the Aleutian Islands where fishing is more practicable. This action is intended to support U.S. fishermen harvesting underutilized groundfish stocks and to provide for fuller utilization of any harvestable groundfish by U.S. and foreign fishermen.

EFFECTIVE DATE: May 9, 1983.

ADDRESS: A copy of the final regulatory flexibility analysis for this rule is available from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907-586-7230

SUPPLEMENTARY INFORMATION:

Background

Amendment 4 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island Area (FMP) was partially approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on October 28, 1982. Proposed rules to implement the approved parts of this amendment were published in the **Federal Register** on December 6, 1982, and comments were invited until January 20, 1983. No comments were received. The approved parts: (1) Adjust the domestic annual harvest (DAH), joint venture processing (JVP), and the total allowable level of foreign fishing (TALFF) amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species;" (2) increase the acceptable biological catch (ABC), optimum yield (OY), and reserve amounts for Pacific cod and for the "other species" category and increase the TALFF for Pacific cod; and (3) expand the area in which foreign fishing may be conducted in the fishery conservation zone.

One part that was disapproved would have authorized the Secretary to issue field orders adjusting fishing seasons and areas for conservation and management reasons. This part was disapproved because the amendment failed to specify adequately the procedures, limits, and types of responses that could be made in issuing such orders.

The principal aspects of Amendment 4 are described fully in the proposed rule. In addition, Amendment 4 makes the following technical changes to the FMP: (a) Consolidates the description of areas closed to foreign fishing, designates and depicts those areas, and reformats the rationale for such areas; (b) corrects or clarifies the geographical coordinates for two of the management areas; (c) adds a description of the four fishing areas and clarifies the depiction thereof; (d) clarifies the description of the fishery management area; (e) clarifies the substance of Amendment 1a and depicts the salmon savings area; (f) clarifies the specifications of domestic annual processing (DAP), domestic non-processed fish, and JVP amounts; (g) deletes references to halibut in various tables; (h) corrects the base optimum yield (OY) for "other species" that should have been increased by 1,000 metric tons (mt) (to 75,249 mt), or five percent of the 20,000 mt increase in Pacific cod OY, by virtue of Amendment 2; and (i) amends the coordinates for one area closed to foreign fishing.

The changes in OY, DAH, JVP, reserve, and TALFF for the species affected by Amendment 4 are summarized in the table below. The specifications are the same as those contained in the proposed rule as corrected on December 23, 1982 (47 FR 57306). This table will serve as notice of the changes to be effected by Amendment 4 in lieu of an amendment to the "TALFF table" which formerly was codified as Appendix 1 to 50 CFR 611.20, but which was removed by a final rule apearing at 47 FR 44264 (October 7, 1982).

Species	Species code	Areas	OY	DAH*	DAP	JVP	DNP	Reserve	TALFF
Pollock	701	Bering Sea [1]	1,000,000	74,500	10,000	64,000	500	50,000	875,500
Yellowfin sole	720		117,000	31,200	1,000	30,000	200	5,850	79,950
Other flat fish	129		61,000	11,200	1,000	10,000	200	3,050	46,750
Pacific cod	702		120,000	43,265	26,000	17,065	200	6,000	70,735
Atka mackerel	207		24,800	14,500	0	14,500		1,240	9,060
Other species [2]	499		77,314	7,800	1,400	6,000	400	3,866	65,848

*DAH = DAP + JVP + DNP.

[1] Bering Sea means fishing areas, I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.

[2] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin octopus, and all other finfish and marine invertebrates except those listed in the table and "unallocated species." See 611.93(b)(1)(ii) for the definition of "unallocated species."

The continental shelf between 170°00'W. longitude and 172°00'W. longitude is very narrow, making it impracticable to fish for groundfish in this area seaward of 12 nautical miles from the baseline used to measure the

U.S. territorial sea. For this reason, Amendment 4 allows both foreign trawling and longlining between three and 12 nautical miles from the baseline in the area: (1) Bounded by 170°00'W. longitude and 172°00'W. longitude on the south side of the Aleutian Islands, and (2) bounded by 170°30'W. longitude and 172°00'W. longitude on the north side of the Aleutian Islands. In addition, Amendment 4 allows foreign longlining between three and 12 nautical miles from the baseline in the area bounded by 170°00'W. longitude and 170°30'W. longitude on the north side of the Aleutian Islands. Foreign trawling is prohibited in the latter area to avoid gear conflicts and grounds-preemption problems between U.S. crab fishermen who fish this area and foreign trawl fleets.

Finally, one set of coordinates for the Winter Halibut Savings area is modified to conform with coordinates specified for that area in the preliminary fishery management plan for this fishery.

Classification

The Assistant Administrator has determined that the approved parts of this amendment to the FMP are necessary and appropriate for the conservation and management of fishery resources in the Bering Sea and Aleutian Islands area, and that the action is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act), other provisions of the Magnuson Act, and other applicable law. He has, therefore, under sections 304 and 305 of the Magnuson Act given final approval to Amendment 4 except for that part relating to the field order authority.

The Assistant Administrator has determined that the final regulations implementing Amendment 4 will not significantly affect the quality of the human environment. This determination was based on an environmental assessment that was filed with the Environmental Protection Agency on March 3, 1982. Accordingly, a supplement to the FEIS for the FMP is not required.

The Assistant Administrator also has determined that implementation of this amendment will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulations at 15 CFR Part 930, Subpart C.

The Administrator of NOAA has determined that this final rulemaking is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, since the sector of the U.S. fishing industry concerned with groundfish from the Bering Sea and Aleutian Islands is too small for these measures to have a significant effect on the economy. By providing additional amounts of groundfish for domestic harvest, Amendment 4 benefits the domestic groundfish fishery and encourages its development.

The Administrator has determined that the final regulations implementing Amendment 4 will have a significant economic impact upon a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The following is a summary of the final regulatory flexibility analysis.

The increase in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" results in an 87,150 mt increase in the total JVP available to domestic fishermen. The mean exvessel value of these species to domestic fishermen fishing for joint venture operations had recently been about $141 per mt. The additional total gross revenues to about 30 U.S. vessels that may deliver groundfish to foreign processors in 1983 could approach $12.3 million.

The increases in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" result in corresponding decreases in the TALFF amounts for these species. If all of the 87,150 mt total decrease in the TALFF were harvested by foreign fishermen, the revenue to the U.S. Treasury through foreign fishing fees in 1983 could be about $3.8 million. A comparison with actual total foreign catches in 1982, however, shows that for each of the individual species' TALFFs being decreased, the adjusted TALFFs would have been sufficient to provide for the 1982 catches, except for pollock. The 1982 total foreign pollock catch exceeded the adjusted TALFF by about 28,000 mt. If the same amount of foreign effort and capacity is applied in 1983 as in 1982, and if availability of stocks allow for a similar fishery, the total foreign catch in 1983 could be short by about 28,000 mt of pollock. The U.S. Government would lose only about $868,000 in foreign fees that it would have charged for pollock, instead of $3.8 million. This potential loss, however, could be offset by the proposed 39,235 mt increase in TALFF for Pacific cod, an higher value species for which the 1983 poundage fee is $80 per mt. The loss of revenue to the U.S. Government from the reduced pollock TALFF would be compensated for if foreign nations were to harvest only about 15,000 mt of the Pacific cod TALFF increase. Any additional harvest of Pacific cod would yield a net increase in revenue.

The Assistant Administrator finds good cause not to delay the effective date of this final rule under 5 U.S.C. 553(d) for the following reasons: (1) The intended effects of this rule are to support U.S. fishermen harvesting underutilized groundfish stocks and to provide for fuller utilization of certain harvestable groundfish by foreign fishermen; (2) the increases in DAH for pollock, yellowfin sole, "other flatfish", atka mackerel, and "other species" are necessary in view of expected 1983 harvests by U.S. fishermen; (3) the increase in the OY for Pacific cod is necessary for full utilization of a stock while it is available; (4) ample opportunity for involvement was accorded the public during public hearings and the 45-day public comment period; and (5) both the U.S. and foreign fishing sectors are aware of and expect these changes, and (6) immediate relief of a current foreign fishing restriction is necessary to promote fuller utilization of available fishery resources.

This final rulemaking does not contain a collection of information requirement or involve any collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 675

Fish, Fisheries, Reporting requirement.

Dated: May 6, 1983.

Roland F. Smith,

Acting Director, Office of Data and Information Management, National Marine Fishery Service.

For the reasons set out in the preamble, 50 CFR Parts 611 and 675 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation of Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.93 is amended by revising paragraphs (c)(2)(i) and (c)(3)(i) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *

(2) * * *

(i) Trawling by foreign vessels between 3 and 12 nautical miles from

the baseline used to measure the territorial sea is allowed (A) at all times in the areas bounded by 170°00′ W. longitude and 172°00′ W. longitude south of the Aleutian Islands and by 170°30′ W. longitude and 172°00′ W. longitude north of the Aleutian Islands; (B) from July 1 through December 31 on Petrel Bank; and (C) from May 1 through December 31 in other areas west of 178°30′ W. longitude. Petrel Bank is bordered by straight lines connecting the following coordinates in the order listed:

Latitude	*Longitude*
52°51′ N.	178°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	178°30′ W.
52°51′ N.	178°30′ W.

* * * * *

(3) * * *

(i) Longlining by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed west of 170°00′ W. longitude.

* * * * *

3. In addition to the amendments set forth above, § 611.93 is amended by removing the second set of coordinates, "52°40′ N. latitude, 170°00′ W. longitude," in paragraphs (c)(2)(ii)(C) and (c)(3)(ii), and inserting in their place "52°48′ N. latitude, 170°00′ W. longitude."

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for Part 675 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. Section 675.20(a) is amended by revising Table 1 to read as follows:

§ 675.20 General limitations

* * * * *

TABLE 1.—BERING SEA AND ALEUTIAN ISLANDS FISHERY OPTIMUM YIELDS AND INITIAL DAHS, TALFFS, AND RESERVES

[In metric tons]

Reference: Species group and subarea [1]	OY	Reserve	Initial DAH	Initial TALFF
Pollock:				
Bering Sea	1,000,000	50,000	74,500	875,500
Aleutians	100,000			100,000
Yellowfin sole	117,000	5,850	31,200	79,950
Turbots	90,000	4,500	1,075	84,425
Other flatfishes	61,000	3,050	11,200	46,750
Pacific cod	120,000	6,000	43,265	70,735
Pacific ocean perch:				
Bering Sea	3,250	162	1,380	1,708
Aleutians	7,500	375	1,380	5,745
Other rockfish	7,727	500	1,550	5,677
Sablefish:				
Bering Sea	3,500	350	700	2,450
Aleutians	1,500	150	700	650
Atka Mackerel	24,800	1,240	14,500	9,060
Squid	10,000	500	50	9,450
Other species	77,314	3,866	7,800	65,648
Total	1,623,591	76,543	189,300	1,357,748

[1] Bering Sea = Fishing Areas I, II, and III combined. Aleutians = Fishing Area IV. Includes territorial waters.

* * * * *

[FR Doc. 83-12730 Filed 5-9-83; 2:17 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 93
Thursday, May 12, 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

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Change in List of Countries to Which Reserve Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on enlarging the list of countries eligible for reserve pool sales. The current list includes all countries outside the Western Hemisphere and Greenland. The proposed change would add all countries in Central and South America and adjacent islands except the Caribbean Islands. The change in the list is brought about by a recent change in the industry's export merchandising program to include the additional countries. The export program is intended to increase California raisin exports. The proposal was recommended by the Raisin Administrative Committee, which works with the USDA in administering the marketing order.

DATE: Comments must be received by July 11, 1983.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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.

The proposal is to expand the list of countries to which raisin handlers may sell reserve raisins to permit sales to countries in Central and South America and adjacent islands, except the Caribbean Islands. This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201—989.231). The Subpart is operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601.674).

Currently, all countries outside the Western Hemisphere and Greenland are eligible outlets for reserve raisins.

The proposed change in the list would conform it with the industry's expanded export merchandising program and permit the later replacement of exports to the additional countries with reserve raisins. Pursuant to § 989.66(f) of the order, reserve raisins can be used to replace exports of free tonnage to countries listed in § 989.221.

Canada, Mexico, and the Caribbean Islands were excluded from the merchandising program because the industry feared that any exports to these countries would be transshipped to the United States. The likelihood of this happening with exports to the countries proposed to be added to the list is unlikely because of high freight rates and tariffs.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

PART 989—[AMENDED]

The proposal is to revise § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.210—989.221) to read as follows:

§ 989.221 Countries to which sale and export of reserve raisins may be made by handlers.

Pursuant to § 989.67(c), the Committee shall sell reserve raisins to handlers for export to all markets in the world except to the following: The United States, Canada, and Mexico and all islands adjacent to these countries, and all of the Caribbean Islands north of the 12th parallel, but not excluding those islands on the continental shelf of South America.

Dated: May 6, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-12717 Filed 5-11-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 23634]

Flight Time, Duty Time, and Rest Requirements for Flight Crewmembers Utilized by Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to form advisory committee for regulatory negotiation.

SUMMARY: The FAA is considering the establishment of an advisory committee to develop a report including a recommended rulemaking proposal concerning flight time, duty time, and rest requirements for flight crewmembers engaged in air transportation. The committee would develop its recommendation using a negotiation process. The committee would be comprised of persons who represent the interests affected by the flight time rules, such as persons representing flight crewmembers, air carriers, air taxis, and the public.

DATE: Comments and suggestions must be received on or before June 10, 1983.

ADDRESS: Comments and suggestions concerning the membership of the advisory committee, the issues that it should consider, the interests affected, the procedures that should be followed and any other matters relating to such a

committee may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23634, 800 Independence Avenue, SW., Washington, D.C.

or delivered to:

Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments and suggestions may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

FAA Contact: Edward P. Faberman, Deputy Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-3773

Convenor/Mediator: Nicholas A. Fidandis, Director, Mediation Services, Federal Mediation and Conciliation Service, Washington, D.C. 20247, Telephone: (202) 653-5240.

SUPPLEMENTARY INFORMATION:

Background

Section 601(a)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1421(a)(5)) requires that the Administrator of the FAA prescribe reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service or airmen, and other employees, of air carriers. The FAA's flight and duty time regulations implementing this statutory requirement have remained essentially unchanged for approximately 30 years. During this span of time there have been dramatic changes in the equipment and operating practices of air carriers. The flight and duty time regulations also have become a matter of contention between carriers on the one hand and employees, particularly employee organizations, on the other. The agency has been involved in litigation over the meaning of certain phrases in those regulations and has issued more than 1,000 pages of interpretations, mostly in response to requests from employees or employee organizations. Of all the provisions of the Federal Aviation Regulations, the flight and duty time requirements have proven to be the most prolific source of requests for interpretations.

Recent efforts by the agency to clarify and update these regulations commenced in 1975. Two notices of proposed rulemaking (NPRM) were issued proposing to revise and simplify the Parts 121 and 135 flight and duty time regulations. Notice No. 77-17 (42 FR 43490; August 29, 1977) contained several proposals to revise the flight and duty time regulations applicable to air taxi operators in Part 135. Similar proposals applicable to air carriers operating under Part 121 were contained in Notice No. 78-3 (43 FR 8070; February 27, 1978). The basic objective of these proposals was to reduce the amount of regulatory material on flight and duty time requirements and to simplify the regulations.

After extensive review and analysis of the comments received on the flight and duty time proposals in Notice Nos. 77-17 and 78-3, the FAA issued a consolidated supplemental notice of proposed rulemaking (Notice No. 78-3B) (45 FR 53316; August 11, 1980) which refined the earlier proposals and covered both Parts 121 and 135. The comments received on Notice No. 78-3B reflected that virtually all affected segments of the air transportation community opposed one or more aspects of the proposals. In light of the comments received, the FAA was not able to fully delineate the safety benefits or the costs associated with the proposals. In the view of the above circumstances Notice No. 78-3B was withdrawn (46 FR 32413; June 22, 1981).

After a period of reassessment, the FAA published a new proposal (Notice No. 82-4) (47 FR 10748; March 11, 1982) to amend the air carrier flight and duty time limitations contained in Parts 121 and 135. As was the case with previous notices, Notice No. 82-4 was greeted with considerable criticism and opposition by the Airline Pilots Association, Alaskan operators, and rotorcraft operators, to name only a few. The latest proposal, therefore, also was withdrawn (47 FR 51585; November 16, 1982).

The agency has found, in attempting to revise the flight and duty time regulations, that conflicts exist on a number of issues between the views of air carriers and those of their flight crewmembers. On certain issues, widely disparate views have been submitted for flight crewmembers themselves depending upon the types of operations in which they are involved, their geographical location, and the type of aircraft operated. For example, some Part 135 pilots have criticized the absence of a monthly limitation on Part 135 flight time. In sharp contrast, other Part 135 pilots vigorously oppose a monthly flight time limitation on the theory that it restricts their ability to earn a living in a peak demand or seasonal flying environments.

Differences are by no means confined to a central issue such as a monthly flight time limitation. For example, flight crewmembers operating under Part 121 contend that the definition of "deadhead" transportation should include not only transporation by air, but also surface transportation between airports in the same metropolitan area, such as the Newark, Laguardia, and Kennedy Airports in the New York City area. Differences also exist among operators over the kind of rules that are needed.

The FAA's experience with attempted rulemaking to improve the flight and duty time regulations convinces the agency that the time has come for a new approach to solve the complex issues that have confronted the agency, air carriers, and flight crewmembers for many years. That new approach is Regulatory Negotiation (RN), a procedure recommended by the Administrative Conference of the United States (ACUS) (Recommendation 82-4, "Procedures for Negotiating Proposed Regulations," 47 FR 30708, June 18, 1982) for handling certain regulatory actions. To ensure its legality, RN would be carried out by an advisory committee created under the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. app. 1. The purpose of RN is to have representatives of all affected interests fully discuss the issues under conditions that would provide incentives to narrow or eliminate their differences and to negotiate a proposed rule acceptable to each interest. The recommendation by the committee should be of a proposal which reflects appropriate rulemaking objectives including Executive Order 12291. The agency would take part in the discussions. Additionally, to facilitate this process, the agency will utilize the services of an impartial convenor/mediator to conduct RN. While the agency is hopeful that this process will result in the issuance of an NPRM that would be acceptable to most parties, the agency is committed to improving the existing regulation.

If this process fails, the agency would issue a new NPRM based upon the complete regulatory record including the record of this process.

Regulatory Negotiation

The increasing complexity of some Government regulations compounded by what some see as an increased formalization of the written rulemaking process can make it difficult for an agency to develop a sound regulatory solution to some problems. The standard process often leads to participants developing adversarial relationships with each other. In this more formal structure, they may take extreme positions, withhold information from one another, or attack the legitimacy of

opposing positions. The give and take sometimes necessary to develop a workable solution is not always possible through the comment and reply process. Public comments are often focused on finding problems with the proposals of others rather than helping to develop creative solutions.

With these problems in mind, participants often tell the agency that a "better rule could be developed if we could all just sit around a table and work it out." As the Administrative Conference has pointed out:

> Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interest, all within the contours of the substantive statute.

As a result of research on this problem, the Administrative Conference adopted Recommendation 82–4. The Administrative Conference's recommendation is essentially that agencies consider assembling a group of representatives of all affected interests who would be encouraged to reach consensus on a resolution of the issues and to draft, for the agency head's consideration, the text of a proposed regulation. Recognizing the experimental nature of this approach, we agree with this recommendation. We have set forth below a set of suggested procedures that we believe will provide a mechanism by which the benefits of negotiation can be achieved. We also believe that the procedures provide the appropriate safeguards suggested by the Administrative Conference, "to ensure that affected interests have the opportunity to participate, that the resulting rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious."

Procedures and Guidelines

The following proposed procedures and guidelines would apply to this process, subject to appropriate changes made as a result of comments received on this notice or as are determined to be necessary during the negotiating process. It should be noted that several necessary preliminary steps have already been taken.

1. *Convenor/Mediator:* Nicholas Fidandis, Director, Mediation Services, Federal Mediation and Conciliation Service, will act as convenor/mediator. The FAA, in consultation with the convenor/mediator, will set up the negotiating group. Upon determination by the FAA (in consultation with the convenor/mediator) of the appropriate negotiating group, the convenor/mediator, a neutral third-party, will conduct the RN process and help it run smoothly. This individual is not involved with the substantive development or enforcement of this regulation. The convenor/mediator will chair the actual negotiations, participate in the "negotiations," and be expected to offer alternative suggestions toward the desired consensus. He may also ask the parties to present additional material or to reconsider their position. Because he is "neutral" with respect to the end result, he can make some of the objective decisions that are necessary in determining the feasibility of negotiaiton for particular issues and in determining potential interests and participants.

2. *Feasibility:* The FAA and the convenor have examined the issues and interests involved and we have made a preliminary inquiry among representatives of the identified interests to determine whether it is possible to reach agreement on: (a) Individuals to represent those interests, (b) the preliminary scope of the issues to be addressed, and (c) a schedule for developing a notice of proposed rulemaking. The issues and interests are listed in subsequent sections of this document. On the basis of the regulatory history of the rulemaking and the preliminary inquiry, the convenor and the FAA believe that regulatory negotiation could be successful with respect to the development of a flight and duty time proposal and that the potential participants listed below could adequately represent the affected interest.

3. *Participants:* The number of participants in the negotiating group should not exceed 15; a number larger than this could make it difficult to have effective negotiations. One purpose of the present notice is to assist the convenor and the identified interests to determine whether other interests, who would not be adequately represented by the proposed participants, may be substantially affected by the proposed rule to be developed. However, we do not believe that each potentially affected individual or organization must have its own representative. Rather, each interest should be adequately represented by the selected parties. To ensure a balanced group, we will make every effort to ensure that no one interest has more than a third of the members of the negotiating committee.

4. *Good Faith:* Participants must be willing to negotiate in good faith. In this regard, it is important that senior individuals within each organization be designated to represent that organization. This applies to the FAA as well, and the agency has designated Kenneth Hunt, Director, Office of Flight Operations, as its representative or his alternate, William Brennan, Manager, Air Transportation Division. No individual is required to "bind" the interests he or she represents, but the individual should be at a high enough level within their organization to "carry a lot of weight." The FAA plans to issue the negotiated proposal in a notice of proposed rulemaking unless it is inconsistent with the statutory authority of the agency or other statutory requirements, or it is not appropriately justified. It is expected that, during the negotiating process, the participants will communicate to their respective organizations the progress of the negotiations. For the process to be successful, the interests represented should be willing to accept the final product of the advisory committee.

5. *Notice of Intent to Establish Advisory Committee and Request for Comment:* In accordance with the requirements of the Federal Advisory Committee Act, an agency of the Federal government cannot establish or utilize a group of people in the interest of obtaining advice or recommendations unless that group is chartered as a Federal advisory committee in accordance with the requirements of the statute. It is the purpose of this notice to indicate our intent to create a Federal advisory committee as well as to—

a. Identify the issues we believe are involved in the rulemaking.

b. Identify the interests we believe are affected by those issues.

c. Identify the participants we have initially determined will adequately represent those interests in the negotiations; and

d. Ask for comment on the use of regulatory negotiation for this rulemaking and on whether the issues, parties, procedures, and guidelines are adequate and appropriate.

6. *Requests for Representation:* If, in response to this notice, an additional person or interest requests membership or representation in the negotiating group, the agency, in consultation with the convenor, would determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be adequately represented by an individual already in the negotiating group, and (iii) whether, in any event, the requester should be added to the group or whether interests can be consolidated and still provide adequate representation.

7. *Final Notice:* After evaluating comments and requests for

representation received as a result of this notice, the FAA would issue a final notice announcing the establishment of the Federal advisory committee, unless it determines that such action is inappropriate after reviewing the comments. After the Federal advisory committee is appropriately chartered, and notice is published in the **Federal Register**, the negotiation process would begin.

8. *Administrative Support and Meetings:* Staff support would be supplied by the FAA. Meetings, at least initially, would be held in the Washington, D.C., area.

9. *Consensus:* The goal of the negotiating process is consensus. Generally, consensus means that each interest should concur in the result. In this regard, a professional mediation service will be provided by the convenor/mediator to facilitate the negotiation process.

10. *Record of Meetings:* In accordance with the requirements of the Federal Advisory Committee Act, the FAA would keep a record of all meetings of the advisory committee. This record would be placed in the public docket for this rulemaking. Meetings of the committee would generally be open to the public, subject to space availability, and would be announced in the **Federal Register** before being held.

11. *Committee Procedures:* Under the general guidance and direction of the convenor and subject to any applicable legal requirements, the committee would establish the detailed procedures for committee meetings that it deemed most appropriate.

12. *Notice of Proposed Rulemaking:* The objective of the committee is to prepare a report containing a notice of proposed rulemaking (NPRM) and preamble. The FAA would provide drafting assistance to the committee. The report should also describe the factual material on which the group relied. If consensus is not obtained on some issues, the report should identify the areas of agreement, the areas in which consensus could not be reached, and the reasons for nonagreement. It is expected that, to the extent possible, the participants would address economic and regulatory flexibility requirements.

13. *Agency Action on NPRM:* The FAA would issue the proposed rule as prepared by the committee unless the agency finds that it is inconsistent with the statutory authority of the agency or other statutory requirements or it is not appropriately justified. In that event, the agency would explain its reasons for its decision. If the agency wishes to modify the negotiated proposal, it would do so in a way that allows the public to distinguish its modifications from what the group proposed.

14. *Final Rule:* After the comments have been received on any notice of proposed rulemaking, the advisory committee would review the comments to determine whether its original recommendations to the agency should be modified. Any necessary changes would be negotiated by the committee in the same manner as the NPRM. The committee would prepare a final report, including a preamble responding to public comment and a proposed final rule. The final rule is the sole responsibility of the Administrator of the FAA. It must be stressed that the Administrator wants to use the regulatory negotiation process and intends to use any negotiated rule on which there is a committee consensus, if it is practicable and legally proper for him to do so.

Major Issues That Would Be Considered in RN on Flight and Duty Time Limitations

The FAA has closely analyzed the dockets on prior notices of proposed rulemaking and has identified what it believes to be the major issues to be considered in RN. They are listed below. Persons who desire to suggest additional issues that should be considered during RN may do so by submitting comments and suggestions in the manner described under the paragraph entitled **"ADDRESS."** Other regulatory issues would be considered by the committee as they arise.

1. Number of Rules.

a. Should there be two rules, one for air carriers under Part 121 and another for air taxi and commuter operators under Part 135?

b. Should commuter air carrier rules be different from the rules for other Part 135 operators?

2. Flight Time and Duty Time Limitations.

a. Should both flight time and duty time limits be proposed?

b. Should the amount of allowable flight time and duty time vary in proportion to crew size?

c. Should there be weekly and monthly flight time and duty time limitations under Part 121?

d. Should there be an annual flight time limitation under Part 121?

e. Should Part 135's theoretical 300 hours per month of permitted flight time be reduced? If so, to what?

f. Should factors such as crossing time zones and the number of landings and takeoffs be considered in establishing flight time limitations.

3. Definition of Duty Time.

a. How should duty time be defined?

b. Should reserve or standby status be considered duty time?

c. Should travel by surface means between airports be permitted during a rest period?

4. Rest Provisions.

a. Should a normal minimum daily rest period be established for all operations? How long should it be?

b. For overnight, away-from-domicile short turnarounds, should a minimum rest period be prescribed? What should it be? If a short rest period is prescribed, should a longer rest period be required upon return to domicile?

c. If a duty period is lengthy (e.g., in excess of 10 hours), should a lengthy rest period (e.g., 16 hours) be required. If so, when would it be required to be given?

d. Under Part 135, in the absence of a required 1 day off in 7 days, should a certain number of rest days be required after a given number of consecutive duty days? If so, what should be the number of days in each case?

5. Deviation Authority.

a. Should Part 135 have a built-in deviation authority provision for unusual operations? (e.g., hospital helicopter flights; highly seasonal activities such as Alaska, cannery, and harvest operations, etc.)

6. Basis for Calculating Flight and Duty Time Limitations.

a. Should a benchmark of calendar months or, instead, any 30 consecutive days be used?

Interests Involved in Flight and Duty Time Requirements

The following interests should be represented in negotiations to develop new flight and duty time requirements:

1. Commercial operators, including—

a. Non-scheduled charter operators.

b. Domestic air carriers.

c. International air carriers.

d. Rotorcraft operators.

e. Short-haul scheduled operators.

f. Short-haul non-scheduled operators.

g. Operators subject to special operating conditions (e.g., weather, limited operating hours and months).

2. Flight crewmembers, including pilots and flight engineers, with similar subinterests as operators.

3. Federal Government.

4. Public/Consumer.

Comments and suggestions on this list of interests should be submitted as explained in the **"ADDRESS"** paragraph above.

Parties that Could be Part of the RN Process

The advisory committee would recommend an NPRM to the FAA.

Therefore, it is important that the advisory committee be comprised of persons who possess substantial expertise and divergent viewpoints on the various issues which would be presented to it for discussion and preparation of recommendations.

They must also adequately represent their interests and be able to "speak for them" to the fullest extent possible. The following is a list of possible representatives which the FAA and the convenor have tentatively identified.

1. Federal Aviation Administration.
2. National Air Carrier Association.
3. National Air Transportation Association (NATA).
4. Air Line Pilots Association (ALPA).
5. Allied Pilots Association.
6. Flight Enginers International Association.
7. Alaska Air Carriers Association.
8. Aviation Consumer Action Project (ACAP).
9. Air Transport Association (ATA).
10. A representative (to be identified) of scheduled air carriers whose interests are not represented by ATA.
11. Regional Airline Association.
12. Helicopter Association International.

Comments and suggestions on this tentative list of representatives may be submitted as explained under the paragraph entitled **"ADDRESS."** Others who believe they should be a party to these proceedings should submit requests to the same location explaning who they represent and how they can represent and interest that would not be adequately represented by the parties listed above.

Tentative Schedule

In accordance with the importance the FAA attaches to the flight and duty time rulemaking, the FAA plans to expedite the processing of any rule changes. The FAA believes that the use of RN should facilitate these plans by providing a consensus proposal and by providing for the imput of interested persons early in the rulemaking process. The FAA hopes to be able to establish an advisory committee by June 15, 1983. The first meeting to the Advisory Committee is tentatively scheduled for June 29, 1983. The location and the time for the meeting will be announced at a later date. A regulatory proposal in the form of an NPRM from the committee, together with any required economic analyses, would be expected by August 15, 1983. In order to eliminate the possibility of disagreement during Office of the Secretary (OST) and Office of Management and Budget (OMB) review of the notice that is required under DOT rulemaking procedures and Executive Order 12291, the FAA has already taken steps to ensure the involvement of OST and OMB during the process. The FAA would hope to issue the NPRM by September 15, 1983, with a 30-day period for public comment being provided. The development of any final rule would, of course, depend on the comments received and their consideration by the advisory committee, but the FAA would strive to complete action on the NPRM by the end of 1983.

Failure of Advisory Committee To Agree on Recommendations

In the event the advisory committee is unable to reach a consensus on a proposed NPRM for submission to the FAA, the agency will proceed with prompt development of a NPRM proposing such changes in the flight and duty time regulations as the FAA deems appropriate.

Because of the importance we attach to developing an NPRM on this matter, and to prevent the possibility that anyone would attempt to use the RN process simply to delay the development of an NPRM, the Administrator has directed that the committee be dissolved if it cannot reach agreement by the middle of August. Earlier dissolution will occur if the convenor recommends or the agency believes that it will be impossible to meet the deadline because of a lack of sufficient progress.

Issued in Washington, D.C., on May 9, 1983.

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 83-12814 Filed 5-9-83; 4:46 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

Extension of Time on Proposed Customs Regulations Amendments Relating to Customhouse Brokers

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a Customs proposal to amend the Customs Regulations relating to customhouse brokers. A document inviting the public to comment on the proposal was published in the **Federal Register** on April 7, 1983 (48 FR 15154). Comments were to have been received on or before June 6, 1983. A national association has requested Customs to extend the period for the submission of comments claiming that because of the many issues raised and the need to solicit comments from its members throughout the United States, additional time is needed to prepare and submit thorough comments. Customs believes the request has merit. Accordingly, the period of time for the submission of written comments is extended to July 5, 1983.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Margaret M. O'Rourke, Chairperson, Customs Headquarters Task Force on Broker Licensing and Regulation, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8074.

Dated: May 6, 1983.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 83-12748 Filed 5-11-83; 8:45 am]

BILLING CODE 4820-02-M

POSTAL SERVICE

39 CFR Parts 447 and 956

Code of Ethical Conduct for Postal Employees; Post-Employment Activities; Rules of Practice in Proceedings Relative to Disciplinary Action For Violation of Restrictions on Post-Employment Activity

AGENCY: Postal Service.

ACTION: Proposed rules.

SUMMARY: The Postal Service proposes a number of amendments to its Code of Ethical Conduct. The first of these amendments would eliminate the specific dollar limit by which "nominal" value or amount is defined in several sections relating to the prohibition on the acceptance of gifts. A second would add new sections to the Code to implement the provisions of 18 U.S.C. 207 by establishing rules and procedures to: (1) Permit the communication of scientific and technological information to the Postal Service by certain former postal employees, and (2) impose administrative sanctions upon former postal employees who violate the provisions of subsections (a)-(c) of section 207. The third amendment would add a new section to the Code to govern

the submission by postal employees of the financial disclosure reports as required by Title II of the Ethics in Government Act, Public Law 95–521. The Postal Service also proposes to adopt rules of practice in proceedings relating to the imposition of the administrative sanctions to which reference is made above.

DATE: Comments must be received on or before June 11, 1983.

ADDRESS: Written comments should be sent to Assistant Ethical Conduct Officer, Law Department, Room 1P–602, United States Postal Service, Washington, D.C. 20260–1113. Comments will be available for public inspection and photocopying in Room 1P–602 475 L'Enfant Plaza West, SW., Washington, D.C., from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Hawley, (202) 245–4584.

SUPPLEMENTARY INFORMATION: Among the provisions of the Postal Service's Code of Ethical Conduct is a section which imposes restrictions on the acceptance by postal employees of gifts of goods or services in any form from persons whose economic interests may be affected by the Postal Service. These restrictions, although intentionally stringent, are not absolute. the Postal Service recognizes, as does Executive Order 11222, the provisions of which the Code implements, that under some circumstances the acceptance of gifts or benefits, which a literal application of the Code would not allow, may properly be permitted. For example, a postal employee may accept a birthday gift from his brother, even though the latter is a Postal Service contractor, so long as it is clear that it is the family relationship, and not the business relationship, which is the motivation for the gift. In other instances when the gift is of little economic value, a rigid prohibition upon acceptance seems unnecessary to protect the integrity of public service and indeed may give the appearance of trivializing the principle involved. The term "nominal value" is used in several paragraphs of § 447.24 to describe gifts of this nature. "Nominal value" is defined with respect to gifts in existing § 447.81(h) as an item of no greater retail value than $2.00. The Postal Service considers that this specific dollar figure, which was adopted in 1974, is today unrealistic as a maximum acceptable level even for items of little economic worth. Experience, moreover, teaches that any fixed dollar figure is likely to be rendered obsolete by the passage of even a relatively short period of time. The Postal Service therefore proposes to delete the section of the Code which defines the term, § 447.81(h), and the reference in § 447.23(b)(2) to the $2.00 figure, leaving "nominal value" to the common understanding of the term. Section 447.81(h) also defines "nominal value" with respect to food and refreshment in terms of what an employee would ordinarily spend if paying his own bill. While this statement does not suffer from the same defect as the dollar figure, we do not consider it essential to define only this limited aspect of the term.

It is certainly not intended in deleting this definition to abandon the principle that nominal value means having little economic worth. It is the very lack of economic worth that makes the acceptance of a gift of nominal value permissible. We think, however, that the term must derive its meaning from the circumstances in which it is applied, from reasonable social conventions where they exist, and in the final analysis from sound judgment and common sense as to what is, and what is not, appropriate.

As a second amendment to the Code, the Postal Service proposes two new sections relating to the post-employment activities of postal employees and the statutory limitations on them imposed by 18 U.S.C. 207. One proposed section, 39 CFR 447.33, summarizes these limitations. It also implements subsection 18 U.S.C. 207(f) by establishing procedures which enable former postal employees, otherwise barred by other provisions of section 207 from communicating with the Postal Service, lawfully to furnish scientific or technological information to the Postal Service. Similarly it implements the statutory authority of the Postmaster General under certain circumstances to exempt a former employee having outstanding qualifications in a scientific or other technical discipline from the restrictions of section 207 so that he may participate with the Postal Service for the benefit of the national interest.

The other proposed section in this part, § 447.34, establishes rules and procedures in implementation of subsection 207(j), which authorizes an agency to impose administrative sanctions upon former employees who violate subsections (a)–(c) of section 207. Complementing this section would be a new Part 956 which establishes rules of practice to govern the conduct of a hearing in the Postal Service's Judicial Officer Department in the event that a former employee, faced with administrative sanctions pursuant to § 447.34, should seek a hearing. Together, these provisions would establish a framework for the administrative imposition of fair and appropriate sanctions, in the manner contemplated by Congress in enacting subsection 207(j).

Of particular significance is proposed § 447.34(e) which authorizes specific sanctions. These are of three kinds: denial of the right to appear before or communicate with the Postal Service as a representative of another for up to five years; debarment from contracting or entering into other business arrangements with the Postal Service directly or as a subcontractor for up to five years; or the cancellation of an existing contract, subcontract or other business arrangement with the Postal Service that was affected by a violation of 207. It is contemplated that any sanctions would be carefully tailored to the nature of the conduct in violation of section 207 which was the occasion for initiating the proceeding. For example, the extended ban on acting in a representative capacity would be appropriate for a violation that involved representation of others. Cancellation of an existing contract, however, or a ban on future contracts would be appropriate if needed to ensure that a former employee not benefit in that manner from agency action which may have been influenced by his or her misconduct.

It should be noted that, because the Postal Service has other procedures which generally apply to debarment from contracting and disputes involving existing contracts, it is necessary to coordinate the procedures established by § 447.34 and Part 956 with those other procedures. To this end § 447.34(f) provides that the proposed procedures would supersede those of Part 957 and govern proceedings involving debarment from contracting when the proposal to debar is based on an alleged violation of section 207. On the other hand the proposed procedures would not govern in the event it is proposed to cancel a contract on the grounds of such an alleged violation. In the former instance, because the alternative procedural rights of the respondent are based on Postal Service regulations and are not significantly different from those of Part 956, we think it appropriate to have Part 956 control. In the latter, however, the rights of the holders of existing contracts are affected by the Contract Disputes Act of 1978, Pub. L. 95–563, 41 U.S.C. 601 *et seq.*, which, of course, is not subject to variance by regulation. Rather than create uncertainty as to which set of procedures governs, § 447.34(f)(2) unequivocally provides that the usual procedures for resolving contract disputes are to be followed.

even though the cancellation of a contract is based upon an alleged violation of section 207.

The Postal Service expects that normally only one form of sanction would be imposed in any instance, that it would be the one of the three herein discussed most closely related to the violation, and that the period of time for which the sanction would be in force would reflect the severity of the violation. The regulation, however, like the statute, would permit as a sanction "such other action as may be appropriate to the violation." This clearly dispels the notion that the Postal Service is rigidly limited to these forms of sanctions when some other sanction is more appropriate.

The third proposed amendment to the Code adds a new section which implements with respect to Postal Service employees the public financial disclosure requirements of title II of the Ethics in Government Act, Pub. L. 95–521. Title II requires all employees in the Executive Branch of the Government who are paid at a rate equivalent to GS–16 to file with their employing agency a report, available to the public, of their personal financial interests. Proposed § 447.42 applies the statutory terms to the circumstances of the Postal Service, identifying those employees who are required to file reports and providing for the filing, review, retention and availability to the public of the reports. A related editorial amendment to § 447.41(a), as amended, substitutes for a reference to Pub. L. 95–521 a reference to proposed § 447.42, as the authority requiring certain postal employees to file financial disclosure reports.

For the above reasons the Postal Service proposes to amend title 39, Code of Federal Regulations, as follows:

List of Subjects in 39 CFR Parts 447 and 956

Conflict of interests, Government employees, Administrative practice and procedure, Postal Service.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. In § 447.24, paragraph (b)(2) is revised to read as follows:

§ 447.24 Conflicts of interest—gifts, entertainment, and favors.

* * * * *

(b) * * *

(2) Accept unsolicited advertising and promotional items, such as a pen, pencil, note pad, or calendar of nominal value;

2. Add new §§ 447.33 and 447.34 reading as follows:

§ 47.33 Post-employment activities.

(a) Restrictions on the post-employment activities of persons who have been employed by the Postal Service are imposed by section 207 of title 18, United States Code. In general, the restrictions contained in 207(a) permanently prohibit appearance as an agent or attorney before Federal agencies or courts on behalf of a private party in any particular matter in which the employee participated in some substantial way while a postal employee. Section 207(b) generally prohibits for two years after leaving postal employment the representation of a private party before Federal agencies or courts in any particular matter that was under the employee's official responsibility within one year prior to leaving postal employment. Section 207(c), which applies only to a limited number of the Officers of the Postal Service, designated as Senior Employees, generally prohibits any appearance before or communication with the Postal Service, with an intent to influence any Postal Service action, for one year after leaving the Postal Service.

(b) Criminal sanctions of imprisonment and fines are provided for violations of section 207. The Attorney General of the United States is responsible for initiating criminal prosecution of persons believed to have violated that statute. To this end, on receipt of information regarding a possible violation of section 207, and after having determined that such information appears substantial, the Ethical Conduct Officer shall expeditiously furnish this information to the Chief Inspector who shall bring it to the attention of the Criminal Division, Department of Justice, and to the Director, Office of Government Ethics. Any investigation or administrative action conducted thereafter by the Postal Service should be coordinated with the Department of Justice to avoid prejudice to any criminal prosecution, unless the Department has determined that it does not intend to initiate such prosecution.

(c) The Postal Service may impose administrative sanctions in the case of a violation of section 207, even though criminal prosecution is not sought. Regulations governing the imposition of these sanctions, which may include prohibiting the former employee for up to five years from appearing before or communicating with the Postal Service, are contained in § 447.34 below. Rules of practice before the Judicial Officer Department in proceedings arising under these regulations are found in Part 956.

(d) Notwithstanding the prohibitions described above, section 207 permits certain types of communications. Any former postal employee may:

(1) Give testimony under oath and make statements required to be made under penalty or perjury (section 207(h));

(2) Appear before or communicate with a Federal agency or court on a matter of a personal and individual nature, such as personal income taxes or retired pay (section 207(i)); or

(3) If he receives no compensation other than established witness fees, make a statement based on his special knowledge (section 207(i)).

(e) In accordance with section 207(f), the prohibitions of section 207(a)–(c) do not apply to the making of communications by former employees solely for the purpose of furnishing scientific or technological information to the Postal Service under the following circumstances:

(1) The former employee shall submit to the Ethical Conduct Officer a notice in writing stating the nature of the restriction that is applicable to him and describing his participation in behalf of the Postal Service which gives rise to the restriction. He shall summarize briefly the information he wishes to communicate and shall describe the circumstances under which he intends to communicate the information. The Ethical Conduct Officer may approve the proposed communication, either as submitted by the former employee or with such modification as he deems necessary to protect the public interest.

(2) A former employee having outstanding qualifications in a scientific, technological or other technical discipline may be exempted from the restrictions of section 207(a)–(c) if the Postmaster General, after consultation with the Director, Office of Government Ethics, makes a certification which is published in the **Federal Register**. The certification shall state that the former postal employee has outstanding qualifications in a scientific, technological or other technical discipline; that he is acting with respect to a particular matter which requires such qualifications; and that the national interest would be served by the former employee's participation.

§ 447.34 Administrative enforcement procedures.

(a) Whenever the Ethical Conduct Officer determines that there is reasonable cause to believe that a former employee has violated section 207 (a), (b) or (c) of title 18, United States Code, in any matter affecting the Postal Service, he may initiate an

administrative disciplinary proceeding by sending to the former employee, hereinafter referred to as the respondent, notice of proposed disciplinary action as provided in this part.

(b) The notice shall inform the respondent of the subsection that he is alleged to have violated and of the basis for the allegation in sufficient detail to enable him to prepare an adequate defense. It shall also inform him of the disciplinary action which is proposed, of his right to a public hearing on the allegation, and of the method of requesting a hearing.

(c) Except as provided in paragraph (f)(2) below, a respondent may, within 20 days following the receipt of the notice of proposed disciplinary action, file an answer with the Recorder in the Postal Service's Judicial Officer Department. The answer shall be in writing and shall comply with the Rules of Practice provided in Part 956 of this title, which shall govern all subsequent proceedings in the Judicial Officer Department.

(d) If no answer is filed, the allegations of the notice shall be taken as admitted and the proposed disciplinary action shall become effective as the final agency decision. The Ethical Conduct Officer may, however, at the expiration of the period for filing an answer or any time thereafter, for good cause, mitigate or remit all or any part of a proposed disciplinary action or a sanction imposed by a final agency decision following default. If an answer is filed, the final agency decision shall be rendered pursuant to Part 956.

(e) Disciplinary action taken in accordance with a final agency decision may consist of:

(1) Prohibiting the respondent from making on behalf of any other person (except the United States) any formal or informal appearance before or, with the intent to influence, any oral or written communication to the Postal Service on any matter of business for a period not to exceed five years;

(2) Excluding the respondent from entering into any contract, lease, permit or other business arrangement with, or any subcontract involving, the Postal Service for a reasonable, specified period of time, not to exceed five years;

(3) Cancelling any contract, lease, permit, or other business arrangement between, or any subcontract involving, the Postal Service and the respondent, affected by a violation of section 207; or

(4) Such other action as may be appropriate to the violation upon which it is based.

(f)(1) In the event that the proposed disciplinary action is that authorized by paragraph (e)(2) of this section, relating to exclusion from entering into contracts, the provisions of this section and of Part 956 shall govern to the exclusion of the provisions of, and of any rights or procedures which might otherwise be available to the respondent pursuant to, Section 1, part 6 of the Postal Contracting Manual and or Part 957 of this title.

(2) In the event that the proposed disciplinary action is that authorized by paragraph (e)(3) of this section, relating to the cancellation of contracts, the proposed disciplinary action shall be handled as a contract dispute subject to Part 955.

(g) A final agency decision imposing disciplinary action is subject to judicial review, as provided in 18 U.S.C. 207(j), as enacted by Pub. L. 95–521.

3. Revise § 447.41(a)(1) and add new §447.42 to read as follows:

§447.41 Confidential statements.

(a) *Employees required to file statements.* (1) Each employee who is in one or more of the following categories (other than a special employee or one required by §447.42(a) to file a Financial Disclosure Report for Executive Branch Personnel (Standard Form 278)) shall file a Confidential Statement of Employment and Financial Interests (Postal Service Form 2417):

* * * * *

§447.42 Public financial disclosure reports.

(a) *Employees required to submit reports.* Each employee who is in one or more of the following categories shall submit a financial disclosure report as prescribed by the Director, Office of Government Ethics, (hereinafter, the Director), currently on Standard Form 278, in accordance with this section.

(1) The Postmaster General.

(2) The Deputy Postmaster General.

(3) The Ethical Conduct Officer.

(4) Each administrative law judge.

(5) Each employee whose basic rate of pay is equal to or greater than the rate of basic pay for the first step of GS–16.

(b) *Person with whom reports should be filed and time for filling.* (1) Financial disclosure reports required under this section shall be filed with the Ethical Conduct Officer. Reports are due as follows:

(i) Within 30 days of assuming a position described in paragraphs (a)(1) through (a)(4) of this section, unless the employee has, within 30 days prior to assuming that position, left another position in which he or she has filed a current report;

(ii) Within 30 days of the effective date of an increase in the rate of basic pay to the level described in paragraph (a)(5) or of an initial appointment at such a rate;

(iii) Within 30 days of the termination of employment with the Postal Service, by retirement or otherwise, unless the employee enters a similarly covered position with another agency in the Executive Branch of the Government;

(iv) Within 30 days of the effective date of an absolute decrease in the rate of basic pay which causes the rate of basic pay of the employee to be less than the current rate of basic pay for the first step of GS–16; and

(v) On or before May 15 of each year when he or she has been in one of the categories in paragraph (a) of this section for more than 60 days during the previous calendar year.

(2) The Ethical Conduct Officer may, for good cause shown, grant to an employee or class of employees an extension of up to 45 days. An additional extension of up to 45 days may be granted by the Director for good cause shown. An employee requesting such an additional extension shall submit in writing a statement of specific reasons for the extension to the Ethical Conduct Officer who shall transmit the request with his comments to the Director.

(c) *Information required to be reported—reporting forms.* (1) Instructions as to the extent of the information to be provided in the report are included with the report form. More detailed instructions may be found in title 5, Code of Federal Regulations, Part 734.

(2) Each report submitted to the Ethical Conduct Officer shall be a full and complete statement, on the form prescribed by the Director and in accordance with instructions issued by him. The form currently in use is Standard Form 278.

(3) The basic categories of information to be included in the report are: Income from sources other than the Postal Service; interests in property; purchases, sales and exchanges of property; gifts and reimbursements; liabilities; positions held; and relations with other employers.

(d) *Reviewing reports and remedial action.* (1) Financial disclosure reports filed in accordance with the provisions of this section shall within 60 days after the date of filing be reviewed by the Ethical Conduct Officer, who shall either approve the report, or make an initial determination that a conflict or appearance thereof exists. In conducting this review, the Ethical Conduct Officer

may utilize the assistance of the reporting employee's Associate Ethical Conduct Officer or his or her designee.

(2) If the reviewing official considers that additional information is needed to complete the report or to allow an adequate review to be conducted, the official shall request the reporting employee to furnish that information by a specified date. The reporting employee shall promptly comply with that request.

(3) If the reviewing official determines initially that a conflict or the appearance of a conflict exists, he shall proceed as provided in § 447.32, relating to remedial action.

(4) The Ethical Conduct Officer shall refer to the Postmaster General the name of any employee he or she has reasonable cause to believe has wrongfully failed to file a report or has wrongfully falsified or failed to report required information.

(5) The Postmaster General may take any appropriate personnel or other action in accordance with applicable law or regulations against any employee whose name is so referred. He shall cause the Chief Inspector to refer to the Attorney General the name of any employee he has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to report required information.

(e) *Custody of and public access to reports.* (1) Retention of reports. Each report filed with the Ethical Conduct Officer shall be retained by him for a period of six years. After the six-year period the report shall be destroyed unless needed in connection with an investigation then pending.

(2) Availability for public inspection. Each report shall, within 15 days after it is received, be available for inspection by, or a copy of it shall be furnished to, any person who makes a written application stating:

(i) The person's name, occupation and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That the person is aware of the prohibitions on the obtaining or use of the report, as set forth in section 205(c)(1) of Pub. L. 95-521, the Ethics in Government Act.

The application shall be available to the public throughout the remainder of the period during which the report itself is available to the public. A reproduction fee of 10 cents per page shall be charged if the aggregate number of pages furnished to or for the benefit of a person or related persons exceeds 30.

(3) Official Position Description. A copy of the official position description of the position held by the reporting employee shall, if available, be attached by the Ethical Conduct Officer to each report. If an official position description is not available, but another form of position description is, the latter shall be attached. A copy of the position description shall be available or furnished to the public together with the report to which it pertains.

(f) *Waiver regarding certain personal gifts.* An individual seeking an exemption pursuant to subsection 202(a)(2)(D) of Pub. L. 95-521, the Ethics in Government Act (to exempt one or more gifts from aggregation under the provisions of said subsection) shall file a request with the Director which sets forth the identity and occupation of the donor; a statement that the relationship between the donor and the reporting individual is purely personal in nature; and a statement that neither donor nor any person or organization for whom the donor actually works or serves as a representative conducts business with, or is subject to regulation by, or is directly affected by action taken by the agency by which the reporting individual is employed. In the event that the immediately preceding statement cannot be made without qualification, the reporting individual may indicate such qualifications along with a statement demonstrating that he or she plays no role in any official action which might directly affect the donor or any organization for which such donor works or serves as a representative. Such a request will be made publicly available if, and at the time, it is granted.

§ 447.81 [Amended]

4. In § 447.81, paragraph (h) is removed, and paragraphs (i) and (j) are redesignated (h) and (i) respectively.

5. Add new Part 956 reading as follows:

PART 956—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DISCIPLINARY ACTION FOR VIOLATION OF RESTRICTIONS ON POST-EMPLOYMENT ACTIVITY

Sec.

Authority: 18 U.S.C. 207(j), 39 U.S.C. 204, 401.

§ 956.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. 204, 401).

§ 956.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the Postal Service pertaining to proposed disciplinary action initiated under § 447.34 of this title.

§ 956.3 Definitions.

(a) The term "Ethical Conduct Officer" has the same meaning as in § 447.31 of this title and includes his authorized representative.

(b) "Respondent" means any individual who has been served a written notice of proposed disciplinary action pursuant to § 447.34 of this title.

(c) The "Recorder" means the Recorder of the U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

§ 956.4 Initiation of proceedings.

(a) The Ethical Conduct Office shall initiate a proceeding by serving upon the proposed respondent a written notice of proposed disciplinary action in the manner hereinafter (§ 956.9(d)) provided for the service of all other papers.

(b) The notice shall:

(1) State that disciplinary action is being considered;

(2) Inform the respondent of the subsection of section 207 (18 U.S.C. 207) that he is alleged to have violated and of the basis of the allegation;

(3) Inform the respondent of the disciplinary action which is proposed;

(4) Advise the respondent that he may oppose the proposed disciplinary action by filing an answer within 20 days following receipt of the notice;

(5) State that the disciplinary action will not become effective until after a final agency decision is issued;

(6) Inform the respondent of the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no answer is filed within 20 days following the receipt of the notice, the proposed disciplinary action set forth in the notice shall become the final agency decision without further notice to the respondent.

§ 956.5 Answer.

Within 20 days from receipt of the notice of proposed disciplinary action, the respondent may file an answer setting forth simple, concise, and direct statements admitting, denying or explaining each of the allegations set forth in the notice.

§ 956.6 Hearing election.

Either party may, within 10 days following the filing of the respondent's answer, request a hearing. If a timely request is not made, the case shall be submitted on the record without a hearing. Submission of the case without a hearing does not relieve the parties of the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may be employed to supplement the pleadings which constitute the record. The presiding officer may permit such submission to be supplemented by oral argument (transcribed if requested) and by proposed findings of fact and conclusions of law.

§ 956.7 Notice of hearing.

(a) When a request for a hearing is filed, a notice of hearing, stating the time and place thereof and advising the respondent of the consequences of a failure to appear at the hearing, will be issued (see § 956.10). In setting a hearing date, due regard shall be given to the respondent's need for:

(1) Adequate time to prepare a defense properly; and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation. Subject to those considerations, whenever practicable, the hearing date shall be within 30 days of the date of the notice of hearing.

(b) The notice of proposed disciplinary action and the answer together with the reply, if any, shall become the pleadings in any proceeding in which a hearing is held.

§ 956.8 Reply.

Not more than 15 days from the service of the answer, the Ethical Conduct Office may submit a reply.

§ 956.9 Service and filing of documents for the record.

(a) Each party shall file with the Recorder pleadings, motions, orders and other documents for the record. The Recorder shall cause copies to be served promptly on other parties to the proceeding and on the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by these rules or by order of the presiding officer to be filed by a specified date shall be filed with the Recorder on or before such date. The filing date shall be entered thereon by the Recorder.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered or certified mail, return receipt requested, or by causing said notice to be personally served on the proposed respondent by an authorized representative of the Postal Service. In the case of personal service, the person making service shall if possible secure from the proposed respondent or his agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. If the person upon whom service is made will not acknowledge receipt, the person effecting service shall execute a statement, showing the time, place and manner of service, which shall constitute evidence of service. The acknowledgment, statement, or return receipt, when service is effected by mail, shall be made a part of the record by the Ethical Conduct Officer. The date of delivery, as shown by the acknowledgment or statement of personal service or the return receipt, shall be the date of service.

§ 956.10 Respondent's failure to appear at the hearing.

If the respondent shall fail to appear at the hearing, the presiding officer shall receive the Ethical Conduct Officer's evidence and render a decision without requirement of further notice to the respondent.

§ 956.11 Amendment of pleadings.

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing: Provided, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed disciplinary action are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service on a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 956.12 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 956.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, D.C. 20260, or other locations designated by the presiding officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the notice of hearing. He shall support his request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at the place designated in the notice of hearing.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevance of the evidence to be offered.

§ 956.14 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter).

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed disciplinary action shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of the respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the respondent.

(e) After an answer has been filed pursuant to the rules in this part, the Law Department shall represent the Ethical Conduct Office in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such department who has been assigned to handle the case on its behalf.

§ 956.15 Presiding officer.

(a) The presiding officer shall be an Administrative Law Judge qualified in accordance with law. The Chief Administrative Law Judge shall assign cases under this part upon rotation so far as practicable. The Judicial Officer may, for good cause found, preside at the reception of evidence upon request of either party.

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conferences for the purposes of the settlement or simplification of issues by the parties;

(8) Permit oral argument by any party;

(9) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(10) Render an initial decision, if the presiding officer is not the Judicial Officer, which becomes the final agency decision unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decison;

(11) Take such other and further action as may be necessary properly to preside over the proceeding and render decision therein.

§ 956.16 Burden of proof and evidence.

(a) Each party may introduce and examine witnesses and submit physical evidence. The Ethical Conduct Officer has the burden of proof in any proceeding under this part and must establish a violation by a preponderance of the evidence.

(b) Except as otherwise provided in these rules, the Federal Rules of Evidence shall be applicable to the hearings conducted under this part. Such rules may be relaxed, however, to the extent that the presiding officer deems proper to insure a fair hearing.

(c) Testimony shall be under oath or affirmation, and witnesses shall be subject to cross-examination.

(d) Agreed statements of fact may be received in evidence.

(e) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(f) Each party may present oral argument.

§ 956.17 Discovery—depositions.

(a) The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense; and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) After an answer has been filed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of the testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specifiy whether the purpose of the deposition is discovery or for use as evidence.

(c) The time, place, and manner of taking depositions shall be mutually agreed by the parties or, failing such agreement, governed by order of the presiding officer.

(d) No testimony taken by depositions shall be considered as part of the evidence in a hearing unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may, in his discretion, receive depositions as evidence in supplementation of that record.

(e) Each party shall bear its own expenses associated with the taking of any deposition.

§ 956.18 Interrogatories to parties, admission of facts, and production of documents.

(a) After an answer has been filed, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by § 956.17.

(b) After an answer has been filed, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) Upon motion of any party showing good cause therefor, and upon notice, the presiding officer may order the other party to produce and permit the inspection and copying or photocopying of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the dicovery of admissible evidence. If the parties cannot themselves agree thereon, the presiding officer shall specifiy just terms and conditions in making the inspection and making the copies and photographs.

§ 956.19 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the reporter and the Postal Service.

§ 956.20 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing may, unless the presiding officer orders otherwise, submit proposed findings of fact, conclusions of law and supporting reasons, either in oral or written form at the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless ordered otherwise by the presiding officer, the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless an extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 956.21 Decisions.

(a) A written initial decision by an Administrative Law Judge shall be rendered with all due speed. The initial decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. The initial decision shall become the final decision of the Postal Service unless an appeal is taken in accordance with § 956.22.

(b) When the Judicial Officer presides at the hearing, he shall issue a final or a tentative decision. Such decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. A tentative decision shall become the final decision of the Postal Service unless exceptions are filed in accordance with § 956.22.

§ 956.22 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by an Administrative Law Judge, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the Administrative Law Judge's written initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's written tentative decision.

(c) Upon receipt of the brief on appeal from an initial decision of an Administrative Law Judge, the Recorder shall promptly transmit the record to the Judicial Officer. The date for filing the reply to a brief on appeal or to a brief in suppport of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(d) Briefs on appeal or in support of exceptions and replies thereto shall be filed in quadruplicate with the Recorder and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited, with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of, or in opposition to, each exception taken, together with specific references to the pertinent parts of the record and the legal or other authorities relied upon.

(e) Unless permission is granted by the Judicial Officer, no brief on appeal or in support of exceptions shall exceed 50 printed or 100 typewritten pages double spaced.

(f) The Judicial Officer will extend the time to file briefs only upon motion for good cause found. The movant shall be promptly notified of the Judicial Officer's decision on the motion.

§ 956.23 Judicial officer.

The Judicial Office is authorized:

(a) to act as presiding officer at hearings;

(b) to render tentative decisions;

(c) to render final decisions of the Postal Service;

(d) to refer the record in any proceedings to the Postmaster General or the Deputy Postmaster General who will make the final decision of the Postal Service; and

(e) to revise or amend these rules of practice. In determining appeals from initial decisions or exceptions to tentative decisions, the entire official record will be considered before a final decision of the Postal Service is rendered. Before rendering a final decision of the Postal Service, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 956.24 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and law relied upon in support of said motion. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the motion.

§ 956.25 Modification or revocation of orders.

A party against whom an order has been issued may file an application setting forth reasons which he believes warrant the modification or revocation of the order. The Recorder shall transmit a copy of the application to the Ethical Conduct Officer who shall file a written reply. A copy of the reply shall be sent to the applicant by the Recorder. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the application. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 956.26 Computation of time.

A designated period of time under the rules of this part excludes the day the period begins and includes the last day of the period unless the last day is a Saturday or Sunday or legal holiday, in which event the period runs until the close of business on the next business day.

§ 956.27 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 956.28 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

(39 U.S.C. 401, 18 U.S.C. 207(j))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-12856 Filed 5-11-83; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Interest Assessment on Overcharges (Receivables)

AGENCY: Office of Plans, Programs, and Financial Management, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to enable GSA to assess interest on overcharges issued to transportation carriers for freight and passenger services furnished for the account of the United States. This amendment is necessary in order to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States as required by the Debt Collection Act of 1982, Pub. L. 97-365.

DATE: Written comments must be received by July 11, 1983.

ADDRESS: Comments should be sent to the General Services Administration (BWCP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: The GSA has determined that this proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this proposed rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this proposed rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101-41 as follows:

Subpart 101-41.5—Claims by the United States Relating to Transportation Services

Section 101-41.502(b)(3) is added to read as follows:

§ 101-41.502 Examination of payments and initiation of collection action.

* * * * *

(b) * * *

(3) Overcharges issued in accordance with § 101-41.502(b)(1) are subject to the assessment of a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Treasury will publish such rate each year not later than October 31 to become effective on the first day of the next calendar quarter, and may revise the rate quarterly. Interest accrues as follows: (i) From the voucher payment date to the Notice of Overcharge date when refund is postmarked within 30 days of the date of the Notice of Overcharge; (ii) from the voucher payment date to the date of payment of the amount due when refund is not postmarked within 30 days of the date of the Notice of Overcharge; and (iii) from the voucher payment date to the date of deduction action by offset when such action is taken. The rate of interest to be charged shall be the rate in effect on the date from which interest accrues, and shall remain fixed at that rate for the duration of the indebtedness. Charges to cover the cost of processing and handling delinquent claims, and a penalty charge, not to exceed 6 per centum per annum, will be assessed for failure to pay any portion of a debt more than 90 days past the date of the Notice of Overcharge.

* * * * *

(31 U.S.C. 952, 31 U.S.C 3726 and 40 U.S.C. 486(c)).

Dated: April 13, 1983.

Raymond A. Fontaine,

Assistant Administrator.

[FR Doc. 83-12735 Filed 5-11-83; 8:45 am]

BILLING CODE 6820-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket NO. FEMA 6492]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 83-4041, beginning on page 7214, in the issue of Friday, February 18, 1983, make the following correction: On page 7223, in the entry for Ohio, Clarington, Monroe County, Ohio River, the "Elevation in feet (NGVD)" which reads "624" should read "642".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78-50; FCC 83-177]

Telecommunications Services for the Deaf and Hearing Impaired

AGENCY: Federal Communications Commission.

ACTION: Order terminating notice of inquiry proceeding.

SUMMARY: Commission terminates Notice of Inquiry proceeding re Telecommunications Services for the Deaf and the Hearing Impaired which sought comments with respect to the telecommunications needs of the deaf and the hearing impaired. The inquiry was terminated in CC Docket No. 78-50, largely because of provisions of the Telecommunications for the Disabled Act of 1982 (Disabled Act). That legislation requires the Commission to make essential telephones hearing aid compatible and to ensure reasonable access by the hearing impaired to telephone service. In addition, the Commission does not require a reduction in long distance rates for users of telecommunications devices for the deaf (TTYs) because competition in the interexchange market has reduced rates and AT&T offers a discount to deaf TTY users. Finally, the Commission does not require TTYs to be provided in conjunction with pay telephones because portable TTYs are available which can be used with coin telephones and the Disabled Act is designed in part to promote access to such devices.

FOR FURTHER INFORMATION CONTACT: Gregory J. Vogt, Enforcement Division, Common Carrier Bureau, Federal Communications Commission,

Washington, D.C. 20554. Telephone No. (202) 632–4890.

Memorandum Opinion and Order

In the matter of Telecommunications Services for the deaf and hearing impaired; CC Docket No. 78–50.

See 2–21–78; 43 FR 7263.

Adopted April 27, 1983.

Released May 3, 1983.

By the Commission: Commissioner Jones absent.

I. Introduction

1. This inquiry was instituted in February 1978 in order to examine the telecommunications needs of the deaf and the hearing impaired, the adequacy of existing telecommunications services for such persons, and the feasibility of improving such services. 67 FCC 2d 1602 (1978). In view of the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410, 97th Cong., 2d Sess., signed into law on January 3, 1983, and due to changed circumstances we are terminating this proceeding. *See Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons,* CC Docket No. 83–427, FCC 83–176 (adopted April 27, 1983) (*Disabled NPRM*).

2. We initiated this proceeding in Docket 78–50 to obtain information which would be of assistance in exercising our statutory responsibility to determine what actions, if any, were feasible to foster additional use of communications services by the disabled. The notice also stated that this inquiry would provide "a nationwide forum whereby communications common carriers and other vendors of communications related equipment could interact with the deaf community in order to better understand their communications needs" and could provide a repository for comments with respect to research efforts which have been or might be undertaken to improve telecommunications services for the deaf and the hearing impaired.

3. We have received a substantial number of formal and informal comments which are of significant value to all individuals and organizations that may be concerned with the telecommunications needs of the deaf and the hearing impaired.[1] *See* Appendix A for list of commenting parties. Many parties have noted that the telecommunications needs of the deaf are quite distinct from those of persons who have less severe hearing impairments. Persons who can distinguish spoken words with the assistance of special equipment, such as a hearing aid, use the telephone for voice communications in essentially the same manner as persons with unimpaired hearing. Persons who cannot distinguish spoken words with the assistance of any mechanical device necessarily must rely upon data communications and visual terminals.

4. Many deaf persons rely upon teletypewriters (TTYs or TDDs), alternatively named telecommunications devices for the deaf, to satisfy their telecommunications needs. The utility of the deaf TTY system is limited because some TTYs are not compatible with computer terminals. At the time the comments were filed, the absence of operator and directory assistance also limited the utility of the deaf TTY system. AT&T has subsequently established a toll free 800 number to provide such services to both Bell and independent telephone company customers. In addition, many comments suggested that interstate MTS rates should be reduced for deaf TTY users. AT&T recently revised that tariff to include special rates for deaf TTY users.

5. Several circumstances have caused us to terminate this proceeding. Most importantly, Congress enacted the Disabled Act. That Act is designed to promote access to telephone service by the hearing impaired. It is also designed to enable telephone companies to accommodate the communications needs of persons whose speech, hearing, sight or mobility is impaired. Pursuant to the terms of the Act we have today adopted a Notice of Proposed Rulemaking in CC Docket 83–427, which will result in rules to implement the Act. *See Disabled NPRM.* Some of the issues which were originally raised in CC Docket 78–50 were addressed by Congress in the Disabled Act and those issues will therefore be left to CC Docket 83–427 for resolution. Those issues raised in Docket 78–50 include: (1) Whether the Commission should adopt technical standards to achieve hearing-aid compatibility in telephone terminal equipment; (2) whether any regulatory impediments prevent technological improvement in services or equipment for the hearing impaired, (3) whether and what types of communications services should be improved for the deaf, (4) whether any Commission action could be taken to reduce the high cost of obtaining deaf TTYs, (5) whether we should resolve incompatibility problems between Baudot code TTYs and those which operate on the ASCII format, and (6) whether government funded research and development with respect to ways to improve the deaf TTY system is needed.

6. Two other issues raised in Docket 78–50 are resolved in this Order. Commission action at this time appears unnecessary on the proposal to reduce MTS rates for TTY users due to carrier actions. Finally, we also consider whether we should require TTYs to be provided in conjunction with coin telephones.

II. Discussion

A. Issues Addressed by the Disabled Act

7. A major focus of the Disabled Act is to promote access by the hearing impaired to hearing-aid compatible telephones. In achieving that goal, the Act requires the Commission to adopt or approve technical standards defining such hearing-aid compatibility. Disabled Act, § 610(c). Thus, Congress has resolved the issue raised in the Notice of Inquiry in the Docket 78–50 proceeding whether or not to establish such standards.

8. In addition, the Notice of Inquiry asked commenting parties whether there existed any regulatory barriers which prevented technological innovation in services for the deaf. Section 610(e) requires that any regulations issued pursuant to the Act be framed to avoid inhibiting technological achievements. Therefore, there is no need to further address this issue in this proceeding.

9. Furthermore, the Notice raised the question of whether a need exists for telephone companies to provide the following services for deaf customers using TTYs: operator, directory and business office assistance, and recorded messages. Carrier services for deaf TTY users were quite limited at the time the comments were filed. The AT&T comments stated that it was in the process of establishing consumer assistance offices for each operating company which would provide business office and directory assistance services for TTY users. No telephone company was providing operator assistance services to deaf TTY users at the time we instituted this Inquiry. The absence of operator assistance services precluded deaf TTY users from placing any type of call that requires operator assistance.

10. AT&T subsequently established regional centers that do provide operator, directory and business office assistance to deaf TTY users. AT&T has advised us that these operator assistance services are available 24 hours a day, that such services are

[1] These comments are available for public inspection in the Docket Reference Room in the Commission's Offices at 1919 M Street NW., Washington, D.C.

offered through a single nationwide toll-free number, (800) 855–1155, and that the services are available to both Bell and independent telephone company customers. Although it appears that carrier action has ameliorated somewhat the need for additional services for deaf TTY users, it is not clear the extent to which current services are offered and whether the Commission should continue to rely on the voluntary cooperation of only one carrier, AT&T, to provide such services. Therefore, this issue will be addressed in the context in which it is raised by the Disabled Act. *See Disabled NPRM*, para. 11.

11. This Notice of Inquiry further raised the question of whether there was any Commission action which could reduce the high cost of obtaining a TTY. At the time comments were filed in this proceeding, TTYs for the deaf cost between $300 and $800. Any reduction in costs for those TTYs would expand the use of the network for the deaf.

12. In the Disabled Act, Congress determined that the most cost-effective method of providing specialized CPE for the deaf is under state-sponsored programs whereby state public utility commissions permit equipment costs to be recovered in the tariff rates for communications services. The implementation of the Act should go far to promote the availability of such devices because the cost of obtaining TTYs could be subsidized, lowering the costs for individual deaf persons. See Disabled Act, §610(g); *Disabled NPRM*, paras. 28–35. Therefore, we find it unnecessary to further address the high cost of obtaining TTYs in this proceeding.

13. In addition, the comments filed in this proceeding indicated that the usefulness of existing standard deaf TTY equipment was limited because many of those devices are incompatible with other types of TTYs and computers which have communication capabilities. Around 1967 the deaf began to rely upon used teletypewriters donated by AT&T, Western Union and others, using a specially designed acoustic coupler which allowed the user to transmit and receive teletypewriter messages over the standard telephone network. Teletypewriters employed the five bit Baudot code with a half duplex modem. Eventually, some devices were developed employing the eight bit ASCII code with a full duplex modem, which is also the standard employed with most personal computer terminals. Generally, those persons with Baudot code TTYs cannot communicate with devices using the ASCII code, and vice versa, although some of the newer deaf devices can transmit and receive in either code. *See* "Telecommunications Devices for the Deaf", *Telephone Engineer & Management*, at p. 69, October 1, 1980.

14. At the time comments were filed, the general consensus appeared to be that the deaf will be relying primarily upon TTYs to satisfy their interactive telecommunication needs for a substantial period of time and that efforts to improve telecommunications services for the deaf should accordingly be directed at making TTY communications less costly and more effective. Nevertheless, technological advances which have occurred since the time comments were filed in this proceeding, particularly the proliferation of personal computers, have cast substantial doubt on that conclusion. Particularly given significant price reductions for personal computers over the last few years and the ability of these terminals to communicate with other ASCII-compatible equipment, there is significantly less reason to conclude that TTYs which employ the Baudot code will be the primary means of the future for the deaf to communicate over the nationwide telephone network.

15. Even if most deaf TTY users will not be interested in interacting with computers, they will probably be interested in communicating with hearing persons who acquire ASCII compatible computers. Many of these computers will also be used as communications terminals. The deaf would probably realize benefits in the long-run if they used TTYs to communicate with persons who have ASCII computer terminals.

16. Some comments state that the incompatibility problem will eventually solve itself without any governmental intervention. Many deaf persons will acquire dual capacity devices, which are presently available during a transition period. The Baudot terminals will eventually cycle themselves out of existence and both deaf and hearing persons will then acquire ASCII only devices. The proliferation of cheap personal computers should also reduce the need for government action to solve compatibility problems.

17. The Disabled Act, by providing for Commission-promulgated rules which would ensure access to telephone service by the hearing impaired, requires that we address the problem of whether customer premises equipment (CPE) used by the deaf provides them with reasonable access to telephone service. The potential TTY incompatibility problem may limit such access. In light of the provisions of the Disabled Act and because the comments received in this Notice of Inquiry are now almost four years old, we are seeking updated comments with respect to this potential incompatibility problem in the context of the CC Docket 83–427 proceeding. The consideration of this issue in this proceeding is therefore terminated.

18. Finally, many comments also suggest that government research funds should be provided to finance the development of an inexpensive ASCII or dual capability TTY which the deaf could use. Congress has established a regulatory framework in the Disabled Act for the provision of TTYs. Congress has determined that carriers should decide, with state regulatory guidance, what equipment to offer disabled persons. Disabled Act, section 610(g). In light of this Congressional scheme, we conclude that no further Commission action, other than to implement the Act, is warranted. The Act should be one mechanism to provide research and development funds for communications CPE for the disabled since states may authorize carriers to recover such costs in the rates for communications services. Thus, in conjunction with privately sponsored and government-funded research efforts, the Disabled Act can further technological advances in CPE needs of the deaf.

B. Toll Rates for TTY Use

19. We have received over sixty formal or informal comments which express the belief that toll rates should be reduced for TTY communications by deaf users. Some suggested that hearing persons who use TTYs to communicate with deaf persons should also qualify for reduced rates. Since this Inquiry was instituted, long distance service has been the subject of increasing competition. This competition has reduced rates substantially below what they were in 1978. Thus, reduced long distance rates are available for hearing, as well as deaf, users of TTYs.

20. In addition, AT&T has a tariff in effect at this Commission that offers reductions in interstate MTS rates for deaf TTY users. *See* AT&T Tariff FCC No. 263, § 3.1(c)(4). In view of the fact that reduced long distance rates are available to most telephone users, including deaf TTY users, and because of AT&T's action giving deaf TTY users discounted long distance rates, no purpose would be served by conducting further proceedings to determine whether this Commission should adopt rules that would prescribe reduced rates for deaf TTY users.

C. Use of Coin Telephones

21. The initial Notice invited interested persons to comment upon the need for pay TTYs which the deaf could use to place calls from coin telephones. We received a number of comments from deaf individuals and organizations that said such pay TTYs would be extremely useful to the deaf and that a particular need exists in places such as rail, bus and airline terminals. Most of these comments suggested that the telephone companies provide the pay TTYs. The comments indicate that no telephone company provides pay TTYs and none of those companies has any present plans to provide them.

22. The AT&T comments state that the provision of pay TTYs is not "currently feasible" and that its experience with coin telephones indicates that any pay TTY would have to be placed in a "secure and attended location." GTE says that its experience with the effects of "environmental stresses, abuse and vandalism" upon regular coin telephones demonstrates that carrier provision of pay TTYs would be "economically prohibitive." The Reply of the National Center for Law and the Deaf says that public TTYs could be placed in many sheltered, supervised areas such as libraries, government buildings and police stations.

23. Congress has determined pursuant to the Disabled Act that carriers and state public utility commissions should decide such matters. Section 610(g) of the Act permits state commissions to allow carriers to subsidize the provision of specialized CPE needed by disabled persons from revenues from rates for communications services. The legislative history of the Act makes clear that the subsidy should be restricted to "those persons, to institutions which serve them, and to associates who require compatible equipment regularly in order to communicate with them." House Report No. 97–888, 97th Cong., 2d Sess., at 13 (1982). In those institutions which serve the deaf, a state-sponsored subsidy program could provide access to such pay TTYs. *See Disabled NPRM*, paras. 33–35. Thus, the Act encourages states to devise ways to make available TTYs for use in conjunction with public coin telephones.

24. Furthermore, many of the newer TTYs are operated by means of acoustic couplers to directly interface with the telephone network through any standard telephone and are light enough to be easily transportable. *See* "Telecommunications Devices for the Deaf," *Telephone Equipment & Management*, at p. 73, October 11, 1980. Portable TTYs would enable the deaf to use coin telephones when they are away from home. Any state-sponsored program for subsidized CPE offerings could easily take portability characteristics into account in promoting access by the hearing impaired to specialized CPE needed to use residential, business and coin telephones.

III. Ordering Clauses

25. Accordingly, it is hereby ordered, that pursuant to Section 4(i) and 4(j) of the Communications Act of 1934, as amended (47 U.S.C. 154 (i) and (j)), this Inquiry is terminated.

26. It is further ordered, that the AT&T motion, dated May 5, 1980, for leave to file supplemental comments is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—List of Parties Filing Formal Comments

Pennsylvania School for the Deaf
Joseph W. Sendelbaugh
Westchester County Office for the Handicapped
International Association of Parents of the Deaf & International Parents Organization
Fire Department Headquarters, City of Quincy, Massachusetts
Rhode Island School for the Deaf
Hearing Industries Association
Denver Commission on the Disabled
Phonics Corp.
National Association of the Deaf
Krown Research
Specialized Systems, Inc.
Greater Los Angeles Council on Deafness, Inc.
ESSCO Communication, Inc.
William Sound Corp.
National Technical Institute for the Deaf
Robert H. Weitbrecht
Rudolph V. Lutter, Jr.
Atlantic Research Corp.
John L. Brosnan
John D. Messina
Otto J. Menzel
Gallaudet College
U.S. Department of Health, Education & Welfare
John Marley
National Association for Hearing & Speech Action
RF Applications, Inc.
National Center for Law and the Deaf
United States Independent Telephone Association
GTE Service Corp.
Westchester Community Services for the Hearing Impaired
MCI Carriers
American Telephone & Telegraph Co.
Telenet Communications Corp.
Alexander Graham Bell Association for the Deaf, Inc.
Teletypewriters for the Deaf, Inc.
Stromberg-Carlson Corp.
Metrovision Amateur Television Club
Digital Broadcasting Crop.
Organization for the Use of the Telephone, Inc.
United Church of Christ
Electronic Industries Association
American Speech & Hearing Association
E. Marshal Wick
Massachusetts Council of Organizations Serving the Deaf
Edgar Bloom, Jr.
Teletyrm Corp.
Micon Industries
Campaign Media Consultants, Inc.
Washington Department of Social and Health Services
Advocacy Services for the Deaf

[FR Doc. 83-12714 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 2 and 22

[Gen. Docket No. 80–183; RM–2365; RM–2750; RM–3047; RM–3068; FCC 83–145]

Amendment of the Commission's Rules To Allocate Spectrum in the 928–941 MHz Band and To Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: In a companion decision the Commission adopted rules and policies to govern the licensing and use of three nationwide paging frequencies in the 900 MHz band. *Memorandum Opinion and Order on Reconsideration (Part 2)*, Gen. Doc. 80–183, FCC 83–145. The Commission considered the record insufficient to adopt final rules on two issues. Therefore, in the *Further Notice*, the Commission solicits comments on the method and extent of rate regulation for the network participants and whether to retain the requirement of open and nondiscriminatory access for the network operators.

COMMENT DATE: Comments are due by June 10, 1983 and replies by July 11, 1983.

ADDRESS: Send comments to—Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632–6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

Further Notice of Proposed Rulemaking

In the matter of amendments of Parts 2 and 22 of the Commission's rules to allocate

spectrum in the 928–941 MHz Band and to establish other rules, policies, and procedures for one-way paging stations in the domestic public land mobile radio service; Gen. Doc. No. 80–183, RM–2365, RM–2750, RM–3047, RM–3068.

Adopted April 7, 1983.

Released: May 4, 1983.

By the Commission: Commissioner Fogarty absent; Commissioners Jones and Sharp concurring in the result.

1. In a companion decision adopted today,[1] we set forth policies and rules governing licensing and use of three frequencies previously allocated for nationwide network paging at 900 MHz.[2] We decided to license three "network organizers" whose services will be distributed in each community served by carriers operating locally ("network operators"). We also tentatively required open and nondiscriminatory access by the network operators to the network channels. Under that access plan, the network operators will be subject only to the minimal federal regulation necessary to assure technical compliance with the underlying network, avoidance of harmful electrical interference, and proper lighting and marking of antenna structures. Because paging networks will be nationwide in scope and predominantly will transmit interstate messages, we preempted state regulation of technical standards, entry and exit. We did not believe, however, that the record was sufficient to enable us to determine the method of rate regulation which will best satisfy the public interest. Accordingly, in this Further Notice we solicit comments on that issue. We also solicit comment on the issue of open and nondiscriminatory access for the network operators.

Tariff Options

2. *Option 1.* Under this option, we would require each of the three common carrier network licensees to file a tariff with the Commission in accordance with the Communications Act and Part 61 of the Commission's rules. This tariff would set forth the terms, conditions and end-to-end charges applying for through service to the ultimate user. In other words, the licensee would file the total charges for the service applicable to the ultimate user. The network licensees would be obligated to file exception rates, if any, of each local carrier on a case-by-case basis. This approach would be relatively simple and efficient because the multitude of carriers providing network service at the local level would not have to file tariffs individually. Revenues would be divided between the network licensees and local network operators pursuant to contractual arrangements. We would contemplate preempting state tariff regulation under this option because the Commission would regulate the rates.

3. *Option 2.* Under this option, which is similar to Option 1, we would also require each of the common carrier network licensees to file a tariff with the Commission in accordance with the Communications Act and Part 61 of the rules. The tariff, which also would apply to the ultimate user, would separately set forth the charges of the network licensee for the haul between its operating centers. The charges assessed by the local network operator for its haul between the ultimate user and the licensee's operating center could be handled in either of two ways. They could be filed by the licensee in its own tariff on behalf of the local operator, or they could be published in the local operator's state tariff and referenced in the FCC tariff. In each case, the local operator would be listed in the licensee's tariff as an "other participating carrier." We recognize that this option might be more burdensome and complex than Option 1.

4. *Option 3.* This option would be to regulate the rates of the network organizers for the haul between cities at the federal level and leave to the states the regulation of the rates for local access to the network as well as the long distance intrastate rates of the network organizers. It would, however, impose an additional burden on the local network operators and the network organizers because they would have to file tariffs in many jurisdictions rather than with this Commission alone. There is already substantial variance among the states in the ways they do or do not regulate local paging rates and charges. This approach may create confusion, delay and inconsistent treatment from state to state. In addition, it does not adequately recognize that network paging is predominantly interstate and, therefore, outside the jurisdiction of state regulatory authorities.

5. *Option 4.* Under this option the Commission would regulate the carrier-to-carrier rates of the three network organizers, but we would forbear from regulating the rates charged by the network operators to their customers for local distribution of network service. With only three network organizers, the marketplace may not be sufficiently competition to justify forbearance regaring the inter city, long-haul rates. On the other hand, open, nondiscriminatory access to the networks by local carriers would assure vigorous competition by the local operators. Given sufficient competition, no public purpose would be served by either state or federal scrutiny of the charges levied by the local operators on top of the network organizer's charges. Implicit in this proposal is our tentative opinion that we can both forbear from regulating preempt state regulation based on the predominantly interstate character of network paging.

6. *Option 5.* This final option is similar to the fourth option except that we would forbear from regulating the rates and charges of both the network organizers and the network operators. To adopt this approach, we would have to be satisfied that, even with only three network organizers, the marketplace is sufficiently competive that regulatory oversight of rates would not advance the public interest. A disadvantage of this option is the absence of any oversight of the network organizers to assure their compliance with the nondiscriminatory access requirement of our concurrent decision. Nevertheless, our complaint procedures would remain available to carriers who may be denied access to a network. New para. F–12 on attached sheets.

Open Access Requirement

7. In deciding to require open and nondiscriminatory access to the three network channels by the local network operators, we recited the public interest benefits expected to flow from that policy. *Reconsideration Order Part 2, supra* note 1, at paras. 20–21. However, we also recognized that there may be important operational or economic reason militating against nondiscriminatory access. *Id.* at para. 22. Moreover, competition sufficient to relieve much of our concern over potential monopoly pricing may exist even absent an access requirement. We decided, consequently, to make our access requirement tentative rather than final and to solicit further comment on this issue here. Interested persons are directed to address only the narrow question of whether we should remove the nondiscriminatory access requirement and not to reargue other issues which have been considered and resolved. We are also interested in how The access policy might be interrelated

[1] Memorandum Opinion and Order on Reconsideration (Part 2), Gen. Doc. No. 80–183, FCC 83–145 (Reconsideration Part 2).

[2] In this docket, we have allocated 3 MHz of spectrum (929–932 MHz) for private radio and common carrier paging. Three of the forty common carrier channels derived from the 3 MHz block are reserved for nationwide network paging. *See* First Report and Order, 89 FCC 2d 1337 (1982), *reconsideration* (Part 1), FCC 82–503, released November 10, 1982.

with the tariff options raised in this Further Notice.

Regulatory Flexibility Act—Initial Analysis

8. *Reasons for Action and Objective.* We have solicited comments on the tariff issue to help the Commission determine what method of rate regulation for 900MHz nationwide frequencies will best serve the public interest. The objective is to implement practical and effective tariff procedures and, thus, to provide expeditious nationwide paging service to the public.

9. *Legal Basis.* The authority for this proposed rulemaking is contained in Sections 4 and 303 of the Communications Act of 1934, as amended.

10. *Small Entities Affected and Potential Impact.* The impact of the rules adopted will be on all common carriers interested in offering the nationwide paging service to their subscribers. The option chosen will have no impact upon the tariff procedures and attendant paperwork requirements for the network participants.

11. *Reporting, Record-Keeping and Compliance.* Depending upon the option chosen, the participants will either be relieved of filing tariffs or will be directed to file them with the states or Federal Communications Commission. The rulemaking does not involve any additional reporting requirements other than those typically associated with rate regulation.

12. *Alternatives that Would Lessen Impact.* One proposed option is to both preempt state rate regulation and forbear from regulating the rates and charges of both the network organizers and operators. This option would eliminate all tariff filing and reporting requirements.

13. Interested parties are invited to submit written comments on their views concerning what method of rate regulation will best satisfy the public interest, and whether or not the requirement of open and nondiscriminatory access should be changed, to the Federal Communications Commission, Washington, D.C. 20554.

14. Comments should be submitted in accordance with Rule Section 1.419, 47 CFR § 1.419. Comments should be submitted by June 10, 1983, Reply Comments by July 11, 1983. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR § 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

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

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-12713 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 61

[CC Docket No. 82-122]

Interconnection Arrangements Between and Among Domestic and International Record Carriers; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order & Request for Further Comments; Extension of comment/reply comment period.

SUMMARY: In an order released April 11, 1983, CC Docket No. 82-122 (48 FR 16708, April 19, 1983), the FCC requested comments on methods for applying the requirement of full and equal interconnection mandated by the Record Carrier Competition Act of 1981 to differences in access provided by record carriers. Comments were due in fifteen days. The FCC now grants a request for an additional two weeks to file comments, in response to a filed motion.

DATES: Comments are now due by May 18, 1983. Reply comments are due by June 2, 1983.

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

FOR FURTHER INFORMATION CONTACT: Daniel Grosh, Common Carrier Bureau, (202) 632-6917.

Order

In the matter of interconnection arrangements between and among the Domestic and International Record Carriers; CC Docket No. 82-122.

Adopted: April 29, 1983.

Released: May 3, 1983.

By the Chief, Common Carrier Bureau:

A request by RCA Global Communications, Inc. for extension to time to file comments with respect to single stage-double stage dialing access is granted. Comments presently due on or before May 4 will now be due May 18. Reply comments will be due June 2, 1983.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-12716 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 93
Thursday, May 12, 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.

CIVIL AERONAUTICS BOARD

[Docket 41390]

California-Toronto/Montreal Service Case; Second Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-titled proceeding will be held on May 12, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 5, 1983.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 83-12803 Filed 5-11-83; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-5-53; Docket 41354]

Delta Air Lines, Inc.; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 83-5-53, Docket 41354.

SUMMARY: The Board is issuing an order directing all interested persons to show cause why the certificate of Delta Air Lines, Inc. for Route 27-F should not be amended to delete its authority to provide the foreign air transportation of persons, property and mail between Burlington, Vermont and Montreal, Quebec, Canada.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be deleted as described in the order cited above, shall, no later than May 31, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41354, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all persons named in the service list for Docket 41354 (which can be obtained from the Docket Section).

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions.

To get a copy of the complete order, request if from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Krevor (202) 673-5203, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 6, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-12804 Filed 5-11-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 30505-75]

Grants for Small Business International Marketing Programs

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Fiscal Year—1983 matching grants program.

SUMMARY: As required by Title III of Pub. L. 96-481, the Commerce Department's International Trade Administration is carrying out a program awarding matching grants of up to $100,000 to defray the costs incurred in establishing Small Business International Marketing Programs. The purpose of the individual Small Business International Marketing Programs will be to increase U.S. new-to-market/new-to-export sales by providing (at the most local level practical) export assistance and services to small businesses interested in pursuing export sales. Grants totaling $950,000 will be awarded under this program. Grant application are now being solicited.

DATES: Grants applications must be postmarked or received on or before June 24, 1983. Mailed applications received after June 24, but on or before close of business June 28, 1983, will be considered as on time, if mailed on or before June 24, 1983, as evidenced by the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. It is important to ask Postal Officials for a date stamp.

ADDRESSES: Grant applications and modifications thereof shall be enclosed in sealed envelopes with the applicant's name and address on the face of the envelope. Mailed applications should be addressed to the appropriate United States Commercial Service District Office listed below or to: Don Stow, Small Business Grants Coordinator, Small Business Export Development Assistance Program, International Trade Administration, Room 2800A, U.S. Department of Commerce, Washington, D.C. 20230.

Hand-delivered proposals may be taken to the Small Business Grants Coordinator at the above address or to the appropriate U.S. Commercial Service District Office listed below. These will be accepted daily between 9:00 and 5:00 p.m. except Saturdays and Sundays, or Federal holidays. Hand-delivered proposals will *not* be accepted after 5:00 p.m. on June 24, 1983. Receipt of proposals will be acknowledged by letter.

Alabama

Gayle C. Shelton, Jr., Director, U.S. Commercial Service District Office, Suite 200-201, 908 South 20th Street, Birmingham, Alabama 35205 (205) 254-1331

Alaska

Blaine D. Porter, Director, U.S. Commercial Service District Office, 701 C Street, P.O. Box 32 Anchorage, Alaska 99513 (907) 271-5041

Arizona

Donald W. Fry, Director, U.S. Commercial Service District Office, Suite 2950 Valley Bank Center, 201 North Central Avenue, Phoenix, Arizona 85073 (602) 261-3285

Arkansas

Lon Hardin, Director, U.S. Commercial Service District Office, Suite 635 Savers Federal Building, 320 W. Capitol Avenue, Little Rock Arkansas 72201 (501) 378-5794

California

Daniel J. Young, Director, U.S. Commercial Service District Office, Room 800, 11777

San Vincente Boulevard, Los Angeles, California 90049 (213) 209–6707
Betty D. Neuhart, Director, U.S. Commercial Service District Office, Federal Building, Box 36013, 450 Golden Gate Avenue, San Francisco, California 94102

Colorado

Donald L. Schilke, Director, U.S. Commercial Service District Office, Room 119, U.S. Customhouse, 721–19th Street, Denver, Colorado 80202 (303) 837–3246

Connecticut

Eric B. Outwater, Director, U.S. Commercial Service District Office, Room 610–B, Federal Office Building, 450 Main Street, Hartford, Connecticut 06103 (203) 244–3530

Florida

Ivan A. Cosimi, Director, U.S. Commercial Service District Office, 821, City National Bank Building, 25 West Flagler Street, Miami, Florida 33130 (305) 350–5267

Georgia

Daniel M. Paul, Director, U.S. Commercial Service District Office, 1365 Peachtree Street, NE., Suite 600, Atlanta, Georgia 30309 (404) 881–7000
James W. McIntire, Director, U.S. Commercial Service District Office, 222 U.S. Courthouse, P.O. Box 9746, 125–29 Bull Street, Savannah, Georgia 31412 (912) 944–4204

Hawaii

Steven K. Craven, Director, U.S. Commercial Service District Office, 4106 Federal Building, P.O. Box 50026, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850 (808) 546–8694

Illinois

Joseph F. Christiano, Director, U.S. Commercial Service District Office, 1406 Mid Continental Plaza Building, 55 East Monroe Street, Chicago, Illinois 60603 (312) 353–4450

Indiana

Mel R. Sherar, Director, U.S. Commercial Service District Office, 357 U.S. Courthouse & Federal Office Building, 46 East Ohio Street, Indianapolis, Indiana 46204 (317) 269–6214

Iowa

Jesse N. Durden, Director, U.S. Commercial Service District Office, 817 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309 (515) 284–4222

Kentucky

Donald R. Henderson, Director, U.S. Commercial Service District Office, Room 636B, U.S. Post Office and Courthouse Building, Louisville, Kentucky 40202 (502) 582–5066

Louisiana

Raymond E. Eveland, Director, U.S. Commercial Service District Office, 432 International Trade Mart, No. 2 Canal Street, New Orleans, Louisiana 70130 (504) 589–6546

Maryland

Carroll F. Hopkins, Director, U.S. Commercial Service District Office, 415 U.S. Customhouse, Gay and Lombard Streets, Baltimore, Maryland 21202 (301) 962–3560

Massachusetts

Francis J. O'Connor, Director, U.S. Commercial Service District Office, 10th Floor, 441 Stuart Street, Boston Massachusetts 02116 (617) 223–2312

Michigan

Raymond R. Riesgo, Director, U.S. Commercial Service District Office, 445 Federal Building, 231 West Lafayette, Detroit, Michigan 48226 (313) 226–3650

Minnesota

Glenn A. Matson, Director, U.S. Commercial Service District Office, 218 Federal Building, 110 South Fourth Street, Minneapolis, Minnesota 55401 (612) 725–2133

Mississippi

Mark E. Spinney, Director, U.S. Commercial Service District Office, Jackson Mall Office Ctr., Ste. 3230, 300 Woodrow Wilson Blvd., Jackson, Mississippi 39213 (601) 960–4388

Missouri

Donald R. Loso, Director, U.S. Commercial Service District Office, 120 South Central Avenue, St. Louis, Missouri 63105 (314) 425–3302–4
Mr. James D. Cook, Director, U.S. Commercial Service District Office, Room 1840, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–3142

Nebraska

Mr. George H. Payne, Director, U.S. Commercial Service District Office, Empire State Bldg., 1st Floor, 300 South 19th Street, Omaha, Nebraska 68102 (402) 221–3664

Nevada

Joseph J. Jeremy, Director, U.S. Commercial Service District Office, 1755 E. Plumb Lane, No. 152, Reno, Nevada 89502 (702) 784–5203

New Jersey

Thomas J. Murray, Director, U.S. Commercial Service District Office, Capitol Plaza, 8th Floor, 240 West State Street, Trenton, NJ 08608 (609) 989–2100

New Mexico

William E. Dwyer, Director, U.S. Commercial Service District Office, 505 Marquette Avenue, NW., Suite 1015, Albuquerque, New Mexico 87102 (505) 766–2386

New York

Robert F. Magee, Director, U.S. Commercial Service District Office, 1312 Federal Building, 111 West Huron Street, Buffalo, New York 14202 (716) 846–4191
Arthur C. Rutzen, Director, U.S. Commercial Service District Office, Room 3718, Federal Office Building, 26 Federal Plaza, Foley Square, New York, New York 10278 (212) 264–0634

North Carolina

Joel B. New, Director, U.S. Commercial Service District Office, 203 Federal Building, West Market Street, P.O. Box 1950, Greensboro, North Carolina 27402 (919) 378–5345

Ohio

Gordon B. Thomas, Director, U.S. Commercial Service District Office, 9504 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202 (513) 684–2944
Zelda W. Milner, Director, U.S. Commercial Service District Office, Room 600, 666 Euclid Avenue, Cleveland, Ohio 44114 (216) 522–4750

Oklahoma

Ronald L. Wilson, Director, Oklahoma International Exporters Services, U.S. Commercial Service District Office, 4024 Lincoln Boulevard, Oklahoma City, Oklahoma 73105 (405) 231–5302

Oregon

Lloyd R. Porter, Director, U.S. Commercial Service District Office, Room 618, 1220 SW. 3rd Avenue, Portland, Oregon 97204 (503) 221–3001

Puerto Rico

J. Enrique Vilella, Director, U.S. Commercial Service District Office, Room 659 Federal Building, San Juan (Hato Rey) Puerto Rico 00918 (809) 753–4555

Pennsylvania

Robert E. Kistler, Director, U.S. Commercial Service District Office, 9448 Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106 (215) 597–2866
William M. Bradley, Director, U.S. Commercial Service District Office, 2002 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222 (412) 644–2850

South Carolina

Johnny E. Brown, Director, U.S. Commercial Service District Office, Strom Thurmond Federal Building, Suite 172, 1835 Assembly Street, Columbia, South Carolina 29201 (803) 765–5345

Tennessee

Bradford H. Rice, Director, U.S. Commercial Service District Office, Suite 1427, One Commerce Plaza, Nashville, Tennessee 38103 (901) 521–3213

Texas

C. Carmon Stiles, Director, U.S. Commercial Service District Office, Room 7A5, 1100 Commerce Street, Dallas, Texas 75242 (214) 767–0542
Felicito C. Guerrero, Director, U.S. Commercial Service District Office, 2625 Federal Building Courthouse, 515 Rusk Street, Houston, Texas 77002 (713) 226–4231

Utah

Stephen P. Smoot, Director, U.S. Commercial Service District Office, U.S. Courthouse, 350 S. Main Street, Salt Lake City, Utah 84101 (801) 524–5116

Virginia

Philip A. Ouzts, Director, U.S. Commercial Service District Office, 8010 Federal

Building, 400 North 8th Street, Richmond, Virginia 23240 (804) 771-2246

Washington

Eric C. Silberstein, Director, U.S. Commercial Service District Office, Room 706, Lake Union Building, 1700 Westlake Avenue, North Seattle, Washington 98109 (206) 442-5616

West Virginia

Roger L. Fortner, Director, U.S. Commercial Service District Office, 3000 New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25301 (304) 343-6181

Wisconsin

Russell H. Leitch, Director, U.S. Commercial Service District Office, Federal Building, U.S. Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 (414) 291-3473

Wyoming

Lowell O. Burns, Director, U.S. Commercial Service District Office, 8007 O'Mahoney Federal Center, 2120 Capitol Avenue, Cheyenne, Wyoming 82001 (307) 772-2151

FOR FURTHER INFORMATION CONTACT: Application kits are available from the appropriate District Office of the United States Commercial Service as listed above. For further information contact Don Stow (202) 377-2474.

SUPPLEMENTARY INFORMATION: The Small Business Export Development Assistance Program is established under section 302 of Pub. L. 96-481, 94 Stat. 2331 (15 U.S.C. 649b). The program is designed to test and refine the theory that a matching grant program to local entities is an effective method for encouraging the development of Small Business International Marketing Programs which will in turn provide export assistance to small business concerns interested in pursuing export sales. The program is listed in the Catalog of Federal Domestic Assistance under number 11.108.

One grant will be awarded in each of the ten regions of the Department of Commerce. Each grant recipient will act as an intermediary, utilizing its own and Federal funds to establish and maintain an organization which will provide export assistance to a number of small businesses in its locality. The grants are not intended to help only one small business, but rather to provide support services, through the grantee, to a number of small businesses in the grantee's region.

Under this program, the Commerce Department is authorized to make grants to a State government or agency or instrumentality thereof, any Small Business Administration-designated "Small Business Development Center", any for-profit small business, any non-profit organization, any regional commission or any combination of such entities. In 1982, grants totaling $1.95 million were awarded to 16 organizations.

The International Trade Administration is now soliciting applications (proposals) for the 1983 program for matching grants of up to $100,000. Appplication kits may be obtained by contacting local U.S. Commercial Service District Offices. Grantees selected under the 1982 program are not eligible to apply for grants under the 1983 program.

The completed application package (original plus 2 copies must include: (a) An application (Standard Form 424). The use of this form has been approved by OMB. The OMB approval number is 0625-0124. It expires October 31, 1984. (b) a concise description of the proposed Small Business International Marketing Program for which the application is being made; (c) a proposed budget; and (d) other supporting data.

To be considered, applications must be received or postmarked no later than June 24, 1983. The review process will begin June 30, 1983. Awards will be made by the end of September, 1983. The agreement between the selected organizations and the Federal Government will be a grant.

At the time of award of grants, grantees will be required to sign standard certifications and assurances related to: equal opportunity, fair labor standards, political activity of program employees, etc. In addition, successful applicants may be required to prepare and submit other standard government grant forms.

The final decision regarding the award of grants will be made by the Assistant Secretary for Trade Development.

This solicitation does not commit the Government to pay any cost incurred in the preparation of a proposal.

General Conditions

a. Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective application are not desired and may be construed as an indication of the applicant's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual and other presentation aids are neither necessary nor wanted.

b. At the discretion of the Department of Commerce, a pre-award survey of successful applicants may be required.

Preparation of Applications and Proposal Content

The application shall contain a concise description of the proposed activities to be undertaken by the Small Business International Marketing Program to be established under this grant. The description should be precise, factual, and complete.

The Budget section of each application shall present projected expenditures for the Program showing salaries including benefits, consultants, contract services, travel and per diem, space costs and other rentals, supplies, postage, telephone and telex, printing, etc. The specific format to be used is included in the Application Kit.

The following information supplementing the projected budge must be provided in a separate section:

a. Explanation of sources of grantee's matching cash share (see definition section below for more details).

b. Explanation of sources of grantee's matching in-kind share, if any (see definition section below for more details). **Note:** Grantees' matching cash and in-kind shares may be raised from any sources except from other Federal funding or from prospective or actual clients, subject to the restrictions below. The Commerce Department reserves the right to verify the applicant's sources of funds by an audit made immediately after the grant award.

c. Explanation of program income, if any.

d. Proposed hourly rate and estimated annual program hours for each member of the staff. Hourly rate should include benefits. **Note:** Names and resumes of proposed professional level staff members must be included with the application. If these individuals are not available at the time of the grant award, substitutions must be submitted to the Grants Coordinator for approval prior to appointment. All resumes should contain the person's date and place of birth, educational institutions attended with dates, and previous and current job responsibilities and titles listed in chronological order showing dates positions were held.

e. A description and justification of that portion of work to be contracted out, if any. Include a task description, the proposed cost, and the means of selection for each individual contract.

f. System for determining per diem rates. Standard U.S. Government per diem schedule is acceptable. Copies are available on request from the Grants Coordinator.

g. A statement that all resources, whether their own or from other sources, that they apply to this program (i.e., their matching share) represent an increase in funds above the amount they would have spent in the absence of a

grant to promote small business exports during the grant period.

h. A statement showing the nature and timing of expected program accomplishments and means by which such accomplishments should be measured.

i. An organization chart for the Small Business International Marketing Program showing position titles and the designated person's name, where known. The chart should show how the proposed organization relates to the applicant's existing organization structure.

j. Statement of projected incremental export sales resulting from the proposed Small Business International Marketing Program and explanation of how these sales will be achieved.

k. Explanation of how the applicant's proposal will enable its Small Business International Marketing Program to become self-sustaining (i.e., for how long, from what sources and in what amounts will the applicant have resources to enable it to continue the Small Business International Marketing Program after the grant agreement terminates).

Freedom of Information Act

The information submitted in the application or with supporting documents will be subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. It is intended that information concerning the identity of applicants, the number of applications, and the status of application evaluation shall not be made publicly available prior to award of grants under this Program, except as may be required to be publicly released by statute (under the FOIA).

Scope of Work

The purpose of the individual Small Business International Marketing Programs established under the Small Business Export Development Assistance Program is to increase U.S. new-to-market/new-to-export sales by providing export assistance and services to small businesses at the most local level practical.

In view of the above and in concert with other requirements set forth in the legislation each Small Business International Marketing Program must:

(a) *Program:* Develop a program which can deliver the services required by the legislation, specifically:

(1) *Counseling:* Counseling of small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(2) *Market Analyses:* Providing market analyses of the export potential of small business concerns; and

(3) *Contacts:* Developing contacts with potential foreign customers and distributors for small businesses and their products, including arrangements and sponsorship of various overseas trade promotion activities (foreign trade missions, trade fair participation, etc.) through which small business concerns can meet with identified potential customers, and organizations, interested in licensing or joint ventures.

(b) *Full-Time Staff Director:* Appoint a full-time staff director to manage program activities.

(c) *Access to Export Specialists:* Have access to export specialist to counsel and to assist small business clients in international marketing when such expertise is not available in house.

(d) *Geographical Area To Be Served:* Identify the geographical area to be served—i.e., in which cities, counties or states will the small businesses be located that the applicant will assist?

(e) *Number of Firms To Be Assisted:* Identify the number of firms to be assisted and the nature of assistance to be given.

(f) *Advisory Board:* No later than 60 days after accepting the grant award, establish an advisory board of nine members to be appointed by the staff director of the program, not less than five members of whom shall be small business persons or representatives of small business associations. Each advisory board shall elect a chairperson and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(g) *Program Time Frame:* Implement and operate the program proposed in the grantee's application for assistance for 12 months commencing no later than December 1, 1983.

Evaluation of Applications

The Scope of Work above describes the required activities to be undertaken by the selected organizations. Each applicant's proposal should respond in the *same sequence shown* in the Scope of Work to each point in the Scope of Work. Each proposal will be evaluated against the evaluation factors specified below. In the development of the proposal, applicants should carefully consider the criteria against which the applications will be evaluated. For example, if an applicant doesn't demonstrate in the proposal how the program will become self-sustaining at the end of the grant period, then the evaluators will be forced to give a low mark for this evaluation factor. Similarly, inadequate information on personnel qualifications may result in low scores by evaluators.

Evaluation Factors and Weight Assigned each Factor out of 100:

(The numbers show the relative weight to be given to each of the 6 evaluation factors when determining the applicant's total score)

Evaluation factor	Weight
a. Potential for proposal resulting in new-to-market/new-to-export sales of small businesses. Of particular interest will be those proposals having the ability to generate substantial sales within the 12-month grant period	25
b. Comprehensiveness and responsiveness of the proposal to this entire solicitation and applicant's recognition of overall program objectives. Logic and realism of the proposal in reaching objectives in the Scope of Work and the degree to which the proposal may incorporate innovative approaches to achieve program goals including value of additions to the Scope of Work, if any	30
c. Staff quality. Experience, education, background of the Staff Director and his/her demonstrated competence for performing and directing the work set forth in the application. Also, experience, education, background, and record of past accomplishment of other members of the staff	25
d. Logic for utilization of personnel and other resources including resources available through existing trade development programs	5
e. Cost Effectiveness. Projected program achievements compared to projected program expenditures	5
f. Potential that project will become self-sustaining at the end of the grant period	10
Total weight	100

Payments

Upon signing the Grant Agreement, grantees will be eligible to request the initial payment. Subsequent payments will be based on reports detailing expenditures against and progress related to the proposed budget and program as set forth in the Grant Agreement. An equal amount of the Grantees matching share must be expended before subsequent payments will be issued.

Furnished Property

No material, equipment, labor, or facilities will be furnished free of charge by the Department of Commerce for the purpose of performance under this program.

Definitions

a. *Small Business:* A small business concern for the purpose of this solicitation is a concern, of 250 or less employees, which is not dominant in its field. This definition applies both to applicants which may be small, for-profit businesses and to clients which must be small businesses. Any exception to this requirement must be approved in writing by the Small Business Grants Coordinator.

Note.—Small business applicants should indicate "Small Business" in Block 8K of Standard Form 424.

b. *New to Market/New to Export:* New-to-Export-sales are sales by a firm which has not sold its product(s) or service(s) in any foreign country. A firm already engaged in exporting is considered as being "New-to-Market" each time it successfully enters a new country market. "Entry" is accomplished through the sale of product(s)/service(s), or the appointment of a sales agent or distributor. However, occasional sales resulting from unsolicited orders or sales made by another firm acting on its own behalf rather than on behalf of or at the direction of the firm in question, do not constitute "entry". Although a firm can be New-to-Market any number of times, it can be New-to-Market in a particular country only once.

c. *Grantee's Matching Cash Contributions:* These are the grantee's cash outlays and include payments for goods and services applicable to the grant. *Also included* are salary and other costs paid for or reimbursed by the grantee for work applicable to the grant.

d. *Grantee's Matching In-Kind Contributions:* These contributions represent the value of the grantee's non-cash resources dedicated to the program.

Note.—The criteria for determining the allowability of cash and in-kind contributions made by grantees are contained in Attachment F to OMB Circular A–102 for grants made to State and local governments, in Attachment E to OMB Circular A–110 for grants made to all other applicants including for-profit organizations).

e. *Tourism Component of the Small Business International Marketing Program.* It is *not* intended that grants be used exclusively for the promotion of foreign tourism in the United States. However a grantee may have clients that are exclusively engaged in promoting foreign tourism in the United States. Manufacturers, producers of services, and businesess engaged in attracting foreign tourists to the U.S. are all legitimate clients of proposed Small Business International.

Marketing Programs. Successful applicants must demonstrate in their proposal the ability *and* intent to carry out the *complete* Scope of Work *including the provision of export counseling and assistance in the traditional sense.* Applications aimed exclusively or principally towards tourism promotion are not acceptable. At least 51 percent of the grantee's clients must be small businesses from other than the tourism promotion sector.

Specific Restrictions

a. Not more than one-third of Federal funds awarded under this solicitation may be used for personnel salaries and benefits. A larger portion of the grantee's matching share may be used for personnel salaries and benefits.

b. *No portion of any Federal funds* awarded under this solicitation may be used to directly underwrite any small business participation in foreign trade missions abroad, but such federal funds *may* be used to underwrite small business participation in foreign trade shows abroad.

In this regard a trade mission is defined as a group of business persons traveling together to several overseas locations for one or two day stops with product literature or samples which might be carried in a brief case. A trade show is defined as an event where the business persons travel separately to a given show in one location overseas where their products would be on display in a booth for approximately one week.

c. A sum equal to the amount of the grant awarded under this solicitation must be provided from souces other than the Federal Government. This non-Federal additional amount known as the matching share, shall not include any amount of direct or indirect costs or in-kind contributions paid for under any other Federal program. Nor shall indirect costs or in-kind contributions from other non-Federal sources exceed 50 per cent of the matching share—stated otherwise, at least 50 percent of the matching share must be in cash or the equivalent of cash (see definition above).

d. No portion of the grantee's matching share may be contributed by clients of its proposed Small Business International Marketing Program.

e. Grantees may not charge their clients a fee or solicit or accept a contribution of any kind or authorize or allow any one affiliated with the grant program, including contractors, to charge the grantee's clients a fee or solicit or accept a contribution for services rendered under the program except as stated below under Program Income.

f. No portion of the Federal funds or the matching share may be used to pay salaries or expenses of the nine member advisory board.

g. Members of the Advisory board may not simultaneously be employees, clients and/or paid consultants of the Small Business International Marketing Program, nor employees of the U.S. Department of Commerce or any U.S. Government Agency, nor may they work for or hold a financial interest in the grantee's organization.

Other Regulations

State and local governments will be subject to the Uniform Administrative Requirements for Grants-in-Aid as set forth in Office of Management and the Budget (OMB) Circular A–102 Revised. All other applicants will be subject to the Uniform Administrative Requirements for Grants-in-Aid as set forth in OMB Circular A–110.

The budget should be prepared in accordance with appropriate Office of Management and the Budget Cost Principles. OMB Circular A–87 shall be used for state and local governments. OMB Circular A–21 shall be used for educational institutions. OMB Circular A–122 shall be used by all other applicants. However, notwithstanding the provisions of OOMB Circular A–122, for-profit organizations are limited to an indirect cost rate of 100 percent. Free copies of the above circulars are available on request from the Small Business Grants Coordinator at the address specified above or by telephone on (202) 377–2474.

Reporting

Program and financial reports will be required quarterly during the grant period. Grantees will be required to furnish such information as is deemed appropriate to complete the Congressionally required program evaluation. Such evaluation and information required shall be limited to that information necessary for:

(a) Determining the impact of "small business international marketing programs" on those small businesses assisted;

(b) Determining the amount of new-to-market/new-to-export sales generated by small businesses assisted through such programs; and

(c) Making recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure.

Grantees will be provided with instructions on how to complete the

final report at the time of the grant award.

Program Income

Grantees may charge clients participating in the program for assistance and services, but such income may *not* be used to reduce the matching share; and furthermore, such income must be limited to and collected on the basis of an appropriate percentage of export income generated as a direct result of participation in the program, i.e. as a commission.

If applicants expect to generate program income by charging a commission, the basis for such income must be fully explained in the application including rates to be charged. Funds so collected must be accounted for and reported on. All such "program income" earned during the grant period and for twelve months thereafter that is attributable to assistance provided under the grant shall be retained by the grantee and added to the funds committed to the program and shall be used to further program objectives. Provided that, if the program income is not expended within eighteen months after the expiration of the grant, it shall be remitted to the Government in proportion to the Government's financial contribution to the total project cost. *If clients are to be charged (i.e., a commission), applicants must include projections of amounts to be collected in the grant period and for 12 months thereafter.*

Restrictions on Purchase of Non-Expendables

Grantees may not use Federal or matching share funds for the purchase of non-expendables such as real property, vehicles or other capital assets or furniture, office equipment, etc. However, grantees may use funds from other sources (i.e., funds not dedicated to this Small Business International Marketing Program) to purchase equipment or other non-expendables and the fair-market rental value may be included as part of their matching share in-kind contribution.

Other Funding Sources

Federal-share funds granted for this program shall not be used to replace any financial support previously provided or assured from any other source. The existing and projected level of expenditure by the Grantee for small business export assistance shall be increased in order to match the Federal grant funds.

Fees and Profits

Applicants may not charge the Federal Government a fee or profit under the grant award.

Federal Export Development Assistance

All applicants must state if they currently receive or have applied for funds from any Federal agency to support export development programs similar to or incorporating elements of the Small Business International Marketing Program. List the program name, amount of funds awarded or requested, Federal agency involved, and name and phone number of the Federal contact person.

Type of Entities

The Small Business International Marketing Programs for which grants will be awarded under this solicitation may be (but do not have to be) independent legal entities. However, operations and records must be sufficiently separated from other activities to be able to account for all expenditures made from Federal grant or matching funds.

Government Not Committed To Pay Costs

This solicitation does not commit the Government to pay any cost incurred in the preparation of a proposal.

OMB Circular A-95

To comply with the provisions of OMB Circular A-95 which requires the coordination of Federal assistance programs with the states, each applicant must submit a copy of their completed Standard Form (SF) 424 application, attached to either the complete proposal or a one page summary of the proposal, to the appropriate state clearinghouse listed in the application kit. Applicants should include a statement that clearinghouse comments on the proposal should be sent to Don Stow, Small Business Grants Coordinator, Room 2800A, U.S. Department of Commerce, Washington, D.C. 20230.

Checklist

The Department of Commerce will not comment on the quality or completeness of applications prior to final submission. However the application kit contains a checklist of required information provided to help applicants make certain their application is complete and to assist evaluators in finding the required information. *Each applicant must submit a completed checklist.* Failure to furnish a completed checklist will result in the application being declared nonresponsive and thus not eligible for evalution and award.

Paul T. O'Day,

Acting Assistant Secretary for Trade Development.

[FR Doc. 83-12591 Filed 5-11-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Standard and Poor's 100 Stock Price Index Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange ("CME") has applied for designation as a contract market in the Standard and Poor's 100 Stock Price Index. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before June 13, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME Standard and Poor's 100 Stock Price Index futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. [202] 254-7303.

A copy of the terms and conditions of the CME proposed S&P 100 Stock Price Index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CME in support of its application for contract market designation may be available upon request pursuant to the

Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CME in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by June 13, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 9, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-12754 Filed 5-11-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Information Collection in Support of DoD Acquisition Management Systems and Data Requirements Control List (AMSDL) DoD 5000.19-L Vol II

The DoD awards approximately 12 million annual contracts for supplies/services and hardware. Information Collection Requests contained in these contracts, for which each contractor is reimbursed, number 2,600 and are listed in the AMSDL for repetitive use. The majority of DoD Information Collection Requests are contained in approximately 5,000 annual contracts of $1.0 million or more. These Information Collection Requests from the Public (contractors) are necessary for the Government to support the design, test, manufacture, training, operation, maintenance, rebuild and logistical support of items of Defense material being acquired under the provisions of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 1,983,800 responses; 218,218,000 hours (preliminary estimate).

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone: (202) 697-1195.

A copy of the information collection proposal may be obtained from James D. Richardson, DMSSO, II Skyline Place, Suite 1403, 5203 Leesburg Pike, Falls Church, VA., 22041, telephone: (703) 756-2340/1.

Dated: May 9, 1983.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 83-12782 Filed 5-11-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Information Collection in Support of DoD Contractual Actions

The DoD issues approximately 13 million contractual actions annually. Information Collection from the Public in support of the DoD Acquisition Process is necessary for the Government to evaluate contractor(s) and supplier(s) approach to support contractual actions for services, supplies and hardware in conformance with the requirements of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 26,000,000 responses; 416,000,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone: (202) 697-1195.

A copy of the information collection proposal may be obtained from Charles W. Lloyd, OUSDRE(AM)DARS, Room RE840, 400 Army Navy Drive, Washington, D.C. 20301, telephone: (202) 697-7267.

Dated: May 9, 1983.

M. S. Healy,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 83-12783 Filed 5-11-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-01-NG]

Natural Gas Import/Export and Northwest Pipeline Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Changed Circumstances in Existing Authorization.

SUMMARY: Northwest Pipeline Corporation ("Northwest") filed an application on March 2, 1983, with the Economic Regulatory Administration (ERA) notifying ERA of its proposal for a deferred exchange of natural gas with Westcoast Transmission Company Limited ("Westcoast") and requesting that an order be issued authorizing Northwest to carry out the exchange. Under the deferred exchange arrangement, Northwest would import natural gas under its existing authorization for seasonal storage at the Jackson Prairie Storage Project (Jackson Prairie) in Lewis County, Washington, for the account of British Columbia Hydro and Power Authority ("B.C. Hydro"), rather than for delivery to Northwest's system supply.

Under the Northwest proposal, up to 50,572 Mcf per day of Canadian natural gas will be delivered to or withdrawn from storage, but the total volume held

in storage at any one time will not exceed 1,719,466 Mcf of natural gas and volumes received for storage will be balanced by withdrawals over the five-year term of the proposal. Withdrawal of natural gas will be accomplished by displacement with stored volumes being delivered to Northwest's system supply concurrently with delivery of equivalent volumes by Westcoast directly to B.C. Hydro with a corresponding reduction in the volumes otherwise deliverable to Northwest under its existing import authorization.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration; Department of Energy, Forrestal Building, Room GA-007, RG-43, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9482.

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6667.

Background

Northwest is currently authorized to import up to 809,000 Mcf of Canadian natural gas per day through the import point near Sumas, Washington, pursuant to a series of authorizations issued by the Federal Power Commission (FPC).

On November 25, 1955, the FPC issued an Opinion and Order in Docket No. G-8932 (14 FPC 157) granting authority to Pacific Northwest Pipeline Company ("Pacific Northwest") to import up to 303,462 Mcf of natural gas per day through the import point near Sumas, Washington, for resale to customers in the United States. Upon merger of Pacific Northwest into El Paso Natural Gas Company ("El Paso"), this import was continued by El Paso under authority granted in Docket No. G-13019 (22 FPC 1091 and 28 FPC 7). El Paso's authorization was amended by FPC orders in Docket No. CP70-138 (43 FPC 723, May 12, 1970, and 45 FPC 252, February 9, 1971), which amendments increased the daily import authorization to the currently authorized level of 809,000 Mcf per day. On September 21, 1973, the FPC, in Docket No. CP73-332 (50 FPC 825), authorized Northwest to acquire and operate the facilities of El Paso's Northwest System Division and to continue the importation of gas from Westcoast as El Paso's successor in interest, under the same conditions as those prevailing under the authorizations issued to El Paso in Docket No. CP70-138.

Changed Circumstance

Northwest proposes a deferred exchange of existing authorized import volumes, whereby, from May through September, Westcoast would deliver natural gas paid for by B.C. Hydro to Northwest at Sumas, Washington. Northwest would then transport the gas for storage in space held by The Washington Water Power Company ("Water Power") at Jackson Prairie. Water Power has agreed to release part of their storage space to B.C. Hydro. During the subsequent heating season, October through April, Northwest would withdraw the gas stored for the account of B.C. Hydro for Northwest's system supply, but assess transportation charges to B.C. Hydro as if Northwest were transporting the gas to Westcoast at Sumas, Washington, for delivery to B.C. Hydro. Northwest further asserts that the actual flow of natural gas during withdrawal from storage is accomplished by displacement with natural gas from Jackson Prairie being withdrawn by Northwest for system supply in exchange for delivery from Westcoast directly to B.C. Hydro of equivalent volumes of natural gas which would be subtracted from the volumes otherwise deliverable by Westcoast to Northwest.

Northwest indicates that B.C. Hydro will play for the natural gas at the time of delivery to Northwest for storage at the commodity price agreed upon in 1967 between B.C. Hydro and Westcoast for domestic deliveries at Huntington, British Columbia. Northwest pays for the gas it withdraws from storage at the time of delivery into its system supply at the current price applicable to natural gas purchased from Westcoast and imported through the Sumas import point.

Northwest states that it does not propose to import or export volumes in excess of those currently authorized. The proposal has been structured specifically to preclude any expansion or extension of existing authorized imports or exports by all parties. Northwest notes that the deferred exchange is for the purpose of providing off-peak storage of natural gas within reasonable proximity to B.C. Hydro's distribution system. Northwest further states that volumes of natural gas received into storage in the United States would be balanced by withdrawals over the term of the proposed project commencing on May 1, 1983, and continuing until April 30, 1988, and thereafter on a year-to-year basis.

Procedural Matters

Any person wishing to become a party to the proceeding and thus to participate as a party in any conference or hearing which might be convened must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed not later than 4:30 p.m., May 27, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northwest's application is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA-007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Issued in Washington, D.C., on May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-12877 Filed 5-11-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-008]

Long Island Lighting Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 15, 1983, Long Island Lighting Company (LILCO), 250 Old Country Road, Mineola, New York 11501, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 2.0 billion cubic feet of natural gas which is expected to displace the use of approximately 8,000 barrels of No. 2 fuel oil (0.30 percent sulfur) and 280,000 barrels of residual fuel oil (0.37 percent

sulfur) per year at its E. F. Barrett Electric Plant in Island Park, New York, and approximately 37,000 barrels of residual fuel oil (0.37 percent sulfur) per year at its Glenwood Electric Plant in Glenwood Landing, New York.

The eligible seller of the natural gas is New York State Electric and Gas Corporation, 4500 Vestl Parkway, East Binghamton, New York 13902. The gas will be transported by Tennessee Gas Pipeline Company, Tenneco Building, P.O. Box 2511, Houston, Texas 77001.

Notice of that application was published in the **Federal Register** (48 FR 18867, April 26, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed LILCO's application for certification in accordance with 10 CFR Part 595 and the policy consideration expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that LILCO's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–12878 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–009]

Gates Rubber Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 21, 1983, The Gates Rubber Company (GATES), 999 South Broadway, Denver, Colorado 80217, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 1,480,000 Mcf per year of natural gas which is expected to displace the use of approximately 1,650,000 gallons (39,285 barrels) of No. 2 fuel oil (0.80 percent sulfur) and 7,410,000 gallons (176,428 barrels) of No. 6 fuel oil (0.90 percent sulfur) per year at its rubber manufacturing facility in Denver, Colorado.

The eligible seller of the natural gas, as amended on April 28, 1983, is Western Gas Processors, 10701 Melody Drive, Northglenn, Colorado 80234. The gas will be transported by Montana-Dakota Utilities Company, 400 North 4th Street, Bismarck, North Dakota 58501, and Colorado Interstate Gas Company, Box 1087, Colorado Springs, Colorado 80944. The local distribution company will be Public Service Company of Colorado, 243 Lipan Street, Denver Colorado 80223.

Notice of that application was published in the **Federal Register** (48 FR 18866, April 26, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed GATES' application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that GATES' application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed informaton, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–12732 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Form EIA–7A, Coal Production Report; Extension of Comment Period

AGENCY: Energy Information Administration, U.S. Department of Energy.

ACTION: Extension of comment period on the revision of the Form EIA–7A, "Coal Production Report," to May 31, 1983.

SUMMARY: The comment period for the Form EIA–7A, "Coal Production Report," is extended to May 31, 1983, from the original due date of April 30, as published in the 48 FR 13226–13235, dated March 30, 1983. This extension is in response to requests of several interested members of the coal industry and the National Coal Association.

DATES: Written comments must be submitted by May 31, 1983.

ADDRESS: Send comments to Harriet M. Tarver at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the EIA–7A, contact Ms. Harriet M. Tarver, Coal Division, MS: 2F–021, Energy Information Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–9723.

Issued in Washington, D.C., May 6, 1983.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 83–12879 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP83–74–000]

Robert Abrams et al. v. Tennessee Gas Pipeline Co.; Notice of Complaint

May 6, 1983.

In the matter of Robert Abrams, as Attorney General of the State of New York, Joseph Gerace, as County Executive for Chautauqua County, and Edward J. Rutkowski, as County Executive of Erie County, Complainants, v. Tennessee Gas Pipeline Company, Defendant.

Take notice that on April 20, 1983, a complaint was filed pursuant to Section 5 of the Natural Gas Act, 15 U.S.C. § 717d, and Order 141 of the Federal Energy Regulatory Commission (Commission) as amended by Order 359, 18 CFR § 1.6. Complainants seek to have the Commission reform certain practices and contracts of the defendant, including "take-or-pay" contract clauses, which are unjust, unreasonable, and preferential and which result in the imposition by defendant of unlawful, unjust, reasonable, and preferential rates and charges in violation of Sections 4 and 5 of the Natural Gas Act, 15 U.S.C. §§ 717 c and d and in violation of the lowest reasonable rate

requirement of Section 5. Complainants allege that defendant has imprudently purchased large amounts of expensive gas while reducing its purchases of far less expensive gas. The Commission has jurisdiction over this complaiant under Sections 1(b) and 5 of the Natural Gas Act, 15 U.S.C. §§ 717 b and d. Jurisdiction is not invoked solely by reason of a first sale and therefore NGPA 601(a)(1) does not apply.

Complainants are Robert Abrams, as Attorney General of the State of New York, who appears on behalf of the people of the State of New York, Joseph Gerace, as County Executive for Chautauqua County, who appears on behalf of the people of Chautauqua County, and Edward J. Rutkowski, as County Executive of Erie County, who appears on behalf of the people of Erie County.

Defendant Tennessee Gas Pipeline Company (Tennessee) is engaged both in the transportaion of gas in interstate commerce and in the sale in interstate commerce of such gas for resale. It is a natural gas company within the meaning of Section 1a of the Natural Gas Act, 15 U.S.C. § 717a, and is subject ot the jurisdiction of the Commission. Tennessee is a division of Tenneco, Inc.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12774 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-476-000]

Connecticut Light and Power Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Central Vermont Public Service Corporation (CVPS). The Agreement, dated as of January 20, 1983, provides for the NU Companies to sell to CVPS excess power from the system of the NU Companies ("system power") that may be available on a daily or weekly basis. CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to CVPS only when it was economic for them to do so.

CVPS would accept such an offer only if it was economic for CVPS to do so.CVPS will pay a capacity charge to the NU Companies for each transaction in an amount equal to the kilowatthours of system capacity utilized by the NU Companies to supply system power to CVPS during a transaction, times a rate negotiated between the parties prior to each transaction, not to exceed $0.0175 per kilowatthour. CVPS will also pay any energy charge to the NU Companies for each transaction in an amount equal to the kilowatthours provided by the NU Companies during such transaction times an energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide power at the time a transaction is agreed to by the parties.

CL&P requests an effective date of January 20, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon WMECO and CVPS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12763 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-286-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 22, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83-286-000, a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon in place a lateral line and metering facilities and the gas service through said facilities at Amax Phophate, Incorporated's Teneroc Plant located in Lakeland, Polk County, Florida, under the authorization issued in Docket No. CP82-553-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the 3½-inch lateral line and metering facilities used to serve the Teneroc Plant are no longer required since the plant closed down and the land on which the plant was located has been dedicated to the State of Florida for a park. Applicant therefore proposes the abandonment of such facilities and service to the plant.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 358.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb

Secretary

[FR Doc. 83-12764 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-288-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 22, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83-288-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes the addition of a delivery point to Peoples Gas System (Peoples) in Plantation, Broward County, Florida, under the authorization issued in Docket No. CP82-553-00 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of an additional deliver point to Peoples to allow for more efficient distribution of natural gas on the Peoples' system. It is stated that gas entitlements would not be increased. Further it is asserted that the cost of the additional delivery point would be 100 percent reimbursed by Peoples.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12785 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-235-000]

Lebanon Methane Recovery, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On March 28, 1983, Lebanon Methane Recovery, Inc., (Applicant), 920 Rosstown Road, Lewisberry, Pennsylvania 17339, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On April 21, 1983 additional information was filed.

The facility, located in Lebanon County, Pennsylvania, will use as its primary energy sources biomass, in the form of biomethane obtained from a sanitary landfill. No coal, gas or oil will be used in the facility. The electric power production capacity of the facility will be 2,000 kilowatts. The owner of the facility does not own any other biomass-fueled small power production facility located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to interevene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12786 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-238-000]

Moon Lake Water Users Association; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On March 31, 1983, Moon Lake Water Users Association (Applicant), of P.O. Box 235, Roosevelt, Utah 84066, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric facility will be located near the Big Sand Wash Reservoir in Duchesne County, Utah. The power production capacity of the facility will be 1,700 kilowatts. There are no other hydroelectric facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12787 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-478-000]

Oklahoma Gas & Electric Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Agreement with Cimarron Electric Cooperative for a new point of delivery under its FERC Electric Tariff to be designated Marshall #2.

OG&E requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR §§ 385.211, 385.214). All such motions or protests must be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12768 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-474-000]

Pennsylvania Power & Light Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 2, 1983, the Pennsylvania Power & Light Company (PP&L) tendered for filing as a Supplement to Rate Schedule FERC No. 68 an executed agreement dated as of April 15, 1983 between PP&L and UGI Corporation (UGI). This supplement will increase PP&L's charges by changing the return on equity component in the cost of service formula used to compute charges to UGI. This supplement will increase PP&L's charges to UGI by $529,529 or 4.2% due to the aforementioned change in the return on equity component in the cost of service formula used to compute charges to UGI. This supplement will increase PP&L's charges to UGI by $529,529 or 4.2% due to the aforementioned change in the return on equity component.

PP&L requests an effective date of April 22, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon UGI and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-12769 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-14-000]

Phelps Dodge Corp.; Notice of Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Ajo, Arizona facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12770 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-13-000]

Phelps Dodge Corp.; Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Bisbee, Arizona facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12771 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-12-000]

Phelps Dodge Corp.; Notice of Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Tyrone, New Mexico facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12772 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-477-000]

Public Service Company of New Mexico; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, the Public Service Company of New Mexico (PNM) tendered for filing a peaking capacity sales agreement entitled "Service Schedule I—Peaking Capacity Sales", between PNM and Plains Electric Generation and Transmission Cooperative, Inc., (Plains). Such agreement is to become a party of the PNM and Plains Master Interconnection Agreement (PNM Rate Schedule FPC No. 31).

PNM is to sell a minimum of 15 megawatts and up to a maximum of 50 megawatts of peaking capacity from its

three (3) Reeves Generating Station Units. Service is to commence on June 1, 1983, subject to FERC acceptance, at 15 megawatts and continue through May 31, 1989.

Copies of the filing were served upon Plains and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12773 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-475-000]

Sierra Pacific Power Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that Sierra Pacific Power Company (Sierra) on April 25, 1983, tendered for filing proposed changes in its FERC Electric Tariff (Volumes 1 and 2).

This filing involves a wheeling agreement between Wells Rural Electric Company (Wells) and Sierra. The agreement consolidates two previous wheeling agreements between Wells and CP National Corporation, which agreements were assumed by Sierra upon its acquisition of CP National Corporation's Elko, Nevada and Winnemucca, Nevada service territories on April 1, 1982. The new agreement also increases the wheeling demand charge under the contracts to cover the cost of reconductoring of a portion of the lines involved. The loss calculation is also increased to cover losses caused by new loads. The wheeling limit for both delivery points involved in the contract was raised, and a penalty charge instituted for any usage in excess of that limit.

Sierra requests an effective date of February 18, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12775 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-73-000]

State of North Dakota v. Northern Natural Gas Company Division of InterNorth, Inc. and Midwestern Gas Transmission Co.; Notice of Complaint, Petition for Declaratory Order, and Request for Evidentiary Hearing of the State of North Dakota

May 6, 1983.

Take notice that on April 14, 1983, the State of North Dakota, by and through counsel Robert O. Wefald, Attorney General, State of North Dakota, and Frederick L. Miller, Jr. and J. Cathy Lichtenberg, Special Assistant Attorneys General for the State of North Dakota, filed a Complaint, Petition For Declaratory Order, And Request For Evidentiary Hearing Of the State Of North Dakota (Complaint) alleging facts and circumstances that constitute a basis for the Complaint and entitle Petition to relief pursuant to the Natural Gas Act, 15 U.S.C. § 717 *et seq.* as hereinafter described.

This Complaint is filed pursuant to Sections 4, 5, 13 and 14 of the Natural Gas Act, 15 U.S.C. §§ 717c, 717d, 717*l* and 717m and Rules 206 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission.

North Dakota accordingly files this Complaint against Northern Natural Gas Company and Midwestern Gas Transmission Company in its *parens patriae* or sovereign capacity as guardian of the health, welfare, and property of its citizens.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12776 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-256-000]

Whisky Run Energy Partners Ore. Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On April 13, 1983, Whisky Run Energy Partners, Ore. Ltd. (Applicant), of 50 California Street, Suite 3300, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind facility is located in Coos Bay, Oregon. The generating capacity of the facility is 1,250 kilowatts. There are no other wind facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12759 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-262-000]

Winchester Water Control District, and Elektra Power Corp.; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On April 19, 1983, Winchester Water Control District, and Elektra Power Corporation (Applicant) 744 San Antonio Road, Palo Atlo, California 94303, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectic facility will be located at the Winchester Dam on the North Umpqua River, near Winchester, Douglas County, Oregon. The power production capacity of the facility will be 1,500 kilowatts. There are no other hydroelectric facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12760 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-57-000]

United Gas Pipe Line Company; Settlement Conference

May 6, 1983

Take notice that on May 19, 1983, at 10:00 a.m. and extending to May 20, 1983, a settlement conference will be convened in the above-captioned docket. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, 285 North Capitol Street, NE., Washington, D.C. 20426.

The number of the hearing or conference room where the conference will be convened will be posted on the second floor bulletin board by 9:30 a.m. on May 19, 1983.

All interested parties and Staff are invited to attend.

The Staff states that all parties should consider its previous suggestion that it might save time for all interested participants if parties with substantial counter-proposals to proposals already offered on March 18, 1983, would circulate their proposals to participants prior to the settlement conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12779 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51466; TSH-FRL 2362-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eighteen PMNs and provides a summary of each.

DATES: Close of review period:

PMN 83-680, 83-681 and 83-682—July 27, 1983.

PMN 83-683, 83-684, 83-685 and 83-686—July 30, 1983.

PMN 83-687 and 83-688—July 31, 1983.

PMN 83-689, 83-690, 83-691, 83-692 and 83-693—August 1, 1983.

PMN 83-694, 83-695, 83-696 and 83-697—August 2, 1983

Written comments by:

PMN 83-680, 83-681 and 83-682—June 27, 1983.

PMN 83-683, 83-684, 83-685 and 83-686—June 30, 1983.

PMN 83-687 and 83-688—July 1, 1983.

PMN 83-689, 83-690, 83-691, 83-692 and 83-693—July 2, 1983.

PMN 83-694, 83-695, 83-696 and 83-697—July 3, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51466]" and the specific PMN Number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-680

Manufacturer. Confidential.

Chemical. (G) Hydroxyethylaminoethylated tannin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 13 workers, up to 1 hr/da, up to 125 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr release to water. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83-681

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. (G) Urethane copolymers. Prod. range: Confidential.

Toxicity Data. Acute oral: 3.1 ml/kg; Acute dermal: > g/kg; Irritation: Skin—Severe, Eye—Minimal; Inhalation: 0.750 mg/l; Ames Test: Non-mutagenic.

Exposure. Manufacture: dermal, a total of 29 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-682

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. (G) Urethane copolymers. Prod. range: Confidential.

Toxicity Data. Acute oral: 4.4 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Maximum mean daily store of 4.0 for erythema and 0.8 for edema, Eye—Minimal; Skin sensitization: Sensitizer.

Exposure. Manufacture: dermal, a total of 29 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-683

Manufacturer. Farchan Laboratories, Inc.

Chemical. (S) 1-ethynyl-1-cyclopentanol.

Use/Production. (S) Site-limited intermediate and industrial R&D reagent. Prod. range: Confidential.

Toxicity Data. Acute oral: 500 mg/kg; Irritation: Skin—Mild, Eye—Strong; Ames Test: Non-mutagenic; Skin sensitization: Not a sensitizer.

Exposure. manufacturer and processing: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW and incineration.

PMN 83-684

Manufacturer. Farchan Laboratories, Inc.

Chemical. (S) 1,4-bis(1-hydroxy cyclopentyl) butadiyne.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 98 mg/kg (male), 139 mg/kg (female); Irritation: Skin—Non-irritant, Eye—Mild;, Ames Test: Non-mutagenic; Skin sensitization: Not a senitizer.

Exposure. manufacture, processing and use: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW and incineration.

PMN 83-685

Manufacturer. Rohm and Haas Company.

Chemical. (G) [(Substituted phenyl)Hydrazono]substituted oxoheteromonocycle.

Use/Production. (S) Intermediate for agricultural chemical. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; Ames Test: Non-mutagenic.

Exposure. manufacture, processing and disposal: dermal, a total of 30 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–1000 kg/yr to water. Disposal by incineration.

PMN 83-686

Importer. Confidential.

Chemical. (G) Modified ethylene—tetrafluoroethylene copolymer.

Use/Import. (S) Wire and cable coating and chemical and electrical process equipment used for industrial, commercial, and consumer use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing and disposal: dermal, a total of 33 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 100–12,000 kg/yr released to land. Disposal by landfill.

PMN 83-687

Manufacturer. National Starch and Chemical Corporation.

Chemical. (G) Carboxylated vinylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >23.07 g/kg; Acute dermal: >110.25 g/kg; Irritation: Skin—Mild, Eye—Minimal; Human Insult Patch Test: Not an irritant; 20 day subacute dermal: No significant adverse findings.

Exposure. Manufacture: inhalation, a total of 50 workers, negligible.

Environmental Release/Disposal. Release is negligible. Disposal in accordance with existing regulations.

PMN 83-688

Manufacturer. American Cyanamid Company.

Chemical. (G) Substituted acrylamide copolymer.

Use/Production. Confidential Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 50 workers, up to 24 hrs/da, up to 365 da/yr.

Environmental Release/Disposal. Release is minimal. Disposal by POTW.

PMN 83-689

Manufacturer. Confidential.

Chemical. (G) Water reducible alkyd resin.

Use/Production. (S) Industrial water reducible paint vehicle. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 4 workers, up to 2 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by incineration.

PMN 83-690

Manufacturer. Confidential.

Chemical. (G) Quaternary salt of a polymer of methyl methacrylate, butyl acrylate, and substituted methacrylate.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, less than 9 workers, up to 24 hrs/da, up to 350 da/yr.

Environmental Release/Disposal. 1,000–10,000 kg/yr released to water. Disposal by POTW.

PMN 83-691

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benzothiazole salt.

Use/Production. (G) A minor constituent in an article for commercial and consumer use. Prod. range: 100 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation, minimal.

Environmental Release/Disposal. Release to air and water is negligible. Disposal by biological treatment system and incineration.

PMN 83-692

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benzothiazole salt.

Use/Production. (G) A minor constituent in an article for commercial and consumer use. Prod. range: 5–10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal and inhalation, minimal.

Environmental Release/Disposal. Release to air and water is negligible. Disposal by incineration.

PMN 83-693

Manufacturer. AZS Chemical Company.

Chemical. (S) N,N'-diaminopropyl ethyl piperazine.

Use/Production. (S) Industrial inhibitor, lube oil and asphalt additive. Prod. range: 25,000–1,000,000 kg/yr.

Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 6 workers, up to 8 hrs/da, up to 3 da/yr.
Environmental Release/Disposal. No release.

PMN 83-694

Importer. Confidential.
Chemical. (G) Polyester of phthalic anhydride and polyhydric saturated alcohols.
Use/Import. (S) Commercial ball pen inks. Import range: 10,000–40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal and inhalation, a total of 8 workers, up to 1 hr/da, up to 44 da/yr.
Environmental Release/Disposal. Release is unknown.

PMN 83-695

Manufacturer. Confidential.
Chemical. (G) Copolymer of vinyl amides.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83-696

Manufacturer. Confidential.
Chemical. (G) Dimer fatty acids, monocarboxylic acid, and polyamines polymer, modified with an acrylic acid copolymer.
Use/Production. (S) Solvent-based flexographic printing inks. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: inhalation, a total of 2 workers, up to 1 hr/da, up to 18 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by biological treatment system and approved landfill.

PMN 83-697

Manufacturer. Confidential.
Chemical. (G) Fatty acid alkyd based polymer.
Use/Production. (G) Open use. Prod. range: 20,000–500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation and ocular, a total of 111 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10 to more than 10,000 kg/yr to land. Disposal by incineration and approved landfill.

Dated: May 9, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-12722 Filed 5-11-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket Nos. 83-432 and 433, File Nos. BPET-820709KE and BPET-820824KT]

Applications etc.; Black Television Workshop of Santa Rosa, Inc. and Bay North Educational Television, Inc.; For Construction Permit; Hearing Designation Order

Adopted: April 27, 1983.
Released: May 5, 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 of Black Television Workshop of Santa Rosa, Inc. (BTW) [1] and Bay North Educational Televsion, Inc. (Bay North) [2] for authority to construct a new non-commercial educational television broadcast station on Channel 62, Santa Rosa, California.

2. On August 24, 1982, Sonoma Broadcasting, Inc., Licensee of Station KFTY(TV), Santa Rosa, California, filed a petition to deny BTW's application on the grounds that BTW specified KFTY's transmitter site for its proposed station. The petitioner alleges that it has not authorized BTW to use its site. On March 3, 1983, BTW amended its application to specify a different site. The petition to deny will, therefore, be dismissed as moot.[3]

3. Bay North indicates, in response to Section V–C, Item 16, FCC Form 301, that construction of the proposed station would not be a major environmental action within the meaning of § 1.1305 of the Commission's Rules. That section of the Rules defines construction of a television tower of over 300 feet above ground level (AGL) as a major action, subject to certain exceptions not applicable here. The applicant proposes a tower 457 feet AGL. The construction would, therefore, be a major environmental action. Accordingly, the applicant will be required to submit an environmental narrative statement to the presiding Administrative Law Judge within 30 days of the date of release of this Order.

4. 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.

5. 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 the extent to which each applicant's proposed operation will be integrated into the overall cultural and educational objectives of the respective applicants;

2. To determine the manner in which each applicant's proposed operation meets the needs of the community to be served;

3. To determine whether the factors in the record demonstrate that one applicant will provide a superior non-commercial educational broadcast service;

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That the petition to deny filed by Sonoma Broadcasting Inc., is dismissed as moot.

7. It is further ordered, That Bay North shall submit, pursuant to § 1.1311 of the Commission's Rules, to the presiding Adminstrative Law Judge within 30 days after the release of this Order, an environmental narrative statement.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

[1] On October 20, 1982, BTW amended its application to change from an unincorporated association to a corporation and to change its name from Black Television Workshop.

[2] A Petition for Leave to Amend was filed by Bay North on December 14, 1982. The amendment pertains to additional information regarding the directors. For good cause shown, the petition is granted and amendment is accepted.

[3] Petitioner also alleged that there would be overlap with a TV station proposed by BTW to operate on Channel 22, Cotati, California, but that application has been dismissed.

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 § 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-12709 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-436, File No. BPCT-821221KG, et al.]

Applications, etc.; Golden Valley Communications (Limited Partnership), et al.; Hearing Designation Order

Adopted: April 28, 1983.

Released: May 5, 1983.

In re applications of Golden Valley Communications (limited partnership), Oroville, California, MM Docket No. 83-436, File No. BPCT-821221KG; Jane A. Filler, Dora Clapp and James E. Auel, d.b.a., Oroville Television, Oroville, California, MM Docket No. 83-437, File No. BPCT-821221KI; Gridley Community Television of Oroville [1] Oroville, California, MM Docket No. 83-438, File No. BPCT-821221KJ; Patricia Luz Gonzalez, and Douglas Jones, d.b.a. Oroville Communications 28, Ltd.,[2] Oroville, California, MM Docket No. 83-439, File No. BPCT-821221KK; for construction permit.

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 broadcast station on Channel 28, Oroville, California; "Petitions to Deny" the applications of Oroville Television and Oroville Communications 28, Ltd., filed by the State of California and the United States Forest Service; and related pleadings.

2. Two of the applicants, Oroville Television and Oroville Communications 28 Ltd., have each specified "Bloomer Hill" as its transmitter site. On February 17, 1983, and February 18, 1983, "petitions to deny" the applications were filed by the United States Forest Service and the State of California, respectively. The petitioners are concerned that a high-power broadcast station would cause objectionable interference to their public safety communications facilities. These facilities apparently are microwave stations and land mobile radio systems operated by Federal and State agencies.

3. The frequency separation of Channel 28 (554-560 MHz) and the petitioners' facilities is so great (a minimum of 84 MHz) that objectionable interference is not likely to occur. However, in the event that interference does occur as a result of the operation of a Channel 28 broadcast facility, the Commission relies on its long standing policy that the "newcomer" is responsible, financially and otherwise, to effect corrective measures. Accordingly, the "petitions to deny" will be denied. However, since the potentially affected radio facilities involve the safety of life and property, the successful permittee for Channel 28, in Oroville, California is cautioned to take adequate measures *during its equipment test stage* to identify and correct any objectionable interference caused by its operations. This may require meetings and coordination with the potentially affected radio services users (prior to conducting equipment tests) as well as the allocation of time and resources to employ effective corrective measures should interference occur.[3]

4. Golden Valley Communications (Golden) and Gridley Community Television of Oroville (Gridley) are both 9 miles short-spaced to the reference point for Channel 29, Sacramento, California. Golden has not requested a waiver of § 73.610(d) of the Commission's Rules; Gridley has. The other two applicants have proposed transmitter sites that are consistent with the minimum separation requirements. Accordingly, an issue will be specified with respect to the short-spacing of Golden and Gridley's proposed transmitter sites.

5. The Commission is not in receipt of the Federal Aviation Administration's study for the tower proposed by Oroville Television. Consequently, no determination has been made that the tower height and location proposed would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. 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.

7. 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 Golden Valley Communications and Gridley Community Television of Oroville whether each of their proposed transmitter sites is consistent with the minimum mileage separation requirements of § 73.610 of the Rules, and if not, whether circumstances exist which would warrant a waiver of the Rule.

2. To determine with respect to Oroville Television whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That the "Petitions to Deny" filed by the United States Forest Service and the State of California ARE DENIED.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

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[1] Applicant amended its application on March 18, 1983, to change its name from Gridley Community Television.

[2] Applicant amended its application to change its limited partner. Since the transfer of the limited partner's interests does not affect control of the partnership, the amendment does not constitute a transfer of control and it is not, therefore, a major amendment. *Anax Broadcasting, Incorporated*, 87 FCC 2d 484 (1981).

[3] The State of California also alleges that the proposed "Bloomer Hill" transmitter site will obstruct the Dept. of Forestry's fire lookout line-of-sight visibility. In the absence of any additional supporting information, the issue will be denied. We note that no such allegation has been made by the Forest Service itself.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-12710 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-434. File No. BPCT-820827KH; and MM Docket No. 83-435. File No. BPCT-821027KE]

Applications, etc. Mid Shore Resources, Inc. and Norwell Broadcasting Co.; for a Construction Permit for a New Television Station on Channel 46, Norwell, Massachusetts; Hearing Designation Order

Adopted: April 27, 1983.

Released: May 5, 1983.

By the Chief, Mass Media Bureau:

1. The Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (1) the above-captioned mutually exclusive applications of Mid Shore Resources, Incorporated ("Mid Shore" or "petitioner") Norwell, Massachusetts and Norwell Broadcasting Company ("Norwell Broadcasting") Norwell, Massachusetts; [1] (2) a motion to dismiss and a petition to deny the Norwell Broadcasting application, filed by Mid Shore on December 21, 1982, and January 5, 1983, respectively; and (3) responsive pleadings thereto.

2. *The Mid Shore Pleadings.* In its motion to dismiss, Mid Shore contends that the Norwell Broadcasting application should be dismissed as not substantially complete and thus unacceptable for filing. Although it is acknowledged that all sections of the application were completed when originally filed, the petitioner maintains that the information contained therein was so incorrect, contradictory, confusing "and so anticipatory of the allowance of liberal amendments by the Commission to gain the level of grantability, as to render its acceptability for filing completely absent." Further, Mid Shore contends that because of these deficiencies, Norwell Broadcasting should not be permitted to amend its application.

3. The standards for determining whether an application is sufficiently complete to be acceptable for filing are well established. What is required is not *total* completeness, but *substantial* completeness. *Miami STV, Inc.*, FCC 80-204, 47 RR 2d 556, released May 2, 1980. *See also Peoria Community Broadcasters, Inc.*, 79 FCC 2d 311 (1980); *K & L Communications, Inc.*, 70 FCC 2d 1987; *KALE, Inc.*, 56 FCC 2d 1033 (1975). *Central Florida Enterprises, Inc.*, 22 FCC 2d 260 (1970). A substantially complete application may be acceptable for filing purposes and yet not demonstrate the requisite qualifications for grant. *James River Broadcasting Corp. v. F.C.C.*, 399 F. 2d 581 (1968). It is undisputed that all sections of the Norwell Broadcasting application were completed when tendered. The petitioner's dispute here involves matters relating to legal and comparative qualifications, not acceptability. It is unnecessary at this time to determine whether Norwell Broadcasting's application is sufficient to demonstrate that it is fully qualified to receive a construction permit. Our acceptance of the application for filling merely means that it has been subject to administrative examination and found to be complete so as to enable the staff to begin processing procedures. Section 73.3564 of the Commission's Rules; *KALE, Inc., supra*, at 1034. Alleged deficiencies of the nature set forth by the petitioner are fairly typical of the many applications filed for construction permits the are routinely accepted for filing and later corrected by amendment. In fact, on January 7, 1983, Norwell Broadcasting properly amended its application as a matter of right pursuant to Section 73.3522(b) of the Commission's Rules. [2] Inasmuch as the application was substantially complete when filed and meets the criteria for acceptance, the motion to dismiss will be denied.

4. In the petition to deny, Mid Shore charges that the Norwell Broadcasting application was filed not to acquire a construction permit, but rather "* * * with the singular intention of exacting a settlement for consideration paid" in exchange for dismissing its application. However, Mid Shore has not supported its allegations with an affidavit of one with personal knowledge of the facts alleged, as required by Section 309(d)(1) of the Communications Act of 1934, as amended, nor submitted any other specific evidence to support its claim. Therefore, there is no basis to act on this allegation. The remainder of the petition to deny, comprises, in essence, a pre-designation petition to specify issues. Since such issues pleadings are no longer permitted, the petition to deny and pleadings related thereto will be dismissed. *Revised Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 214 (1979). This action is without prejudice to Mid Shore, however, as it will have an opportunity to raise such allegations, if warranted, pursuant to § 1.229 of the Commission's Rules.

5. Since we have not received a determination from the Federal Aviation Administration that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

6. Norwell Broadcasting proposes to operate with maximum visual effective radiated power (ERP) of more than 1000 kilowatts from a site located within 250 miles of the Canadian border. The proposal poses no interference threat to United States stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). Accordingly, in the event of a grant of the Norwell Broadcasting application, the construction permit shall be appropriately conditioned.

7. 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.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and

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[1] By amendment filed on January 7, 1983, the Commission was advised, *inter alia*, that Pepsi Cola Bottling Company of Alton, Inc., in whose name the application was tendered, transferred its interest to Norwell Broadcasting, a general partnership comprised of the two individuals noted as principals in the originally tendered application. The amendment is a minor change in that there is no change in the ownership interest of the principals.

[2] The petitioner has provided no support for its contention that Norwell Broadcasting should not be permitted to amend its application as a matter of right. Moreover, although the petitioner maintains that the amendment constitutes a prohibited 50% change in its originally proposed coverage area, Norwell Broadcasting has demonstrated that its amended proposal is a "minor change" in that the coverage area was changed by 44%. Therefore, no further discussion of these allegations is warranted.

place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

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.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to the proceeding with respect to issue 1.

10. It is further ordered, That the motion to dismiss filed by Mid Shore Resources, Incorporated, is denied, and its petition to deny is dismissed.

11. It is further ordered, That, in the event of a grant of the Norwell Broadcasting Company application, the construction permit shall be conditioned as follows:

Operation with maximum visual effective radiated power in excess of 1000 kilowatts shall not commence absent Canadian consent.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (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.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a) (2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Sevices Division, Mass Media Bureau.

[FR Doc. 83-12708 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Common Carrier Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Common Carrier Communication Subcommittee of the National Industry Advisory Committee (NIAC) to be held Thursday, May 26, 1983. The Subcommittee will meet at AT&T Long Lines, 1120 20th Street, NW., Washington, D.C. at 9:30 a.m.

Purpose: To consider emergency communications matters.

Agenda: As follows:

1. Opening remarks by Chairman.
2. Continuation of the deliberations of the Subcommittee's May 5, 1983 meeting.
3. Other business.
4. Adjournment.

Any member of the 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. 83-12843 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Manufacturers Hanover Corp. and Redmond Bancorp.; Bank Holding Companies; Proposed de Novo Nonbank Activities

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 section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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. *Manufacturers Hanover Corporation*, New York, New York (finance and insurance activities; Connecticut): To continue to hold the shares of Manufacturers Hanover Financial Services of Connecticut, Inc. ("MHFS") after MHFS engages in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as would be made or acquired by a finance company under Connecticut law; and offering credit related life insurance and credit accident and health insurance at a new location in West Hartford, Conneticut. These insurance activities are permissible under sections 601 (A) and (D) of the Garn- St Germain Depository Institutions Act of 1982. MHFS presently engages in these activities from an office in Wallingford, Connecticut. The application is only to continue to hold the shares of MHFS after MHFS engages in these activities at a different location servicing an expnaded service area; the application does not involve the commencement of any new activities at the new location. The office will serve customers in the State of Connecticut. Comments on this application must be received not later than June 6, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Redmond Bancorp*, Redmond, Washington (lending and servicing activities; western United States): Through its wholly-owned subsidiary, Redmond Mortgage Company, Redmond, Washington, will engage in the financing, refinancing, buying, selling, servicing and warehousing of all types of real estate loans secured by mortgages and trust deeds. These include, but are not limited to, single-family residences, apartments, condominiums, town houses, industrial and commercial real estate loans. These activities will be conducted from an office in Redmond, Washington, serving the western United States. Comments on this application must be received not later than June 6, 1983.

Board of Governors of the Federal Reserve System, May 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12881 Filed 5-11-83; 8:45 am]

BILLING CODE 6210-01-M

Miners National Bancrop, Inc. and Memphis Bancshares, Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares 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 Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Miners National Bancorp, Inc.*, Pottsville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Miners National Bank of Pottsville, Pottsville, Pennsylvania. Comments on this application must be received not later than June 6, 1983.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Memphis Bancshares, Inc.*, Memphis, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Memphis, Texas. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12880 Filed 5-11-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

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.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to acquire 100 percent of the voting shares of the successor by merger to Commercial Bankshares, Inc., Griffin, Georgia. Comments on this application must be received not later than May 26, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.

James McAfee,

Associate Secretary of the Board

[FR Doc. 83-12821 Filed 5-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of a Bank Holding Company

The company listed in this notice has 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 a bank holding company by acquiring 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.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Potomac Bancorp, Inc.*, Keyser, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Keyser, Keyser, West Virginia. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.

James McAfee,

Associate Secretary of the Board

[FR Doc. 83-12822 Filed 5-11-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The organizations identified in the notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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 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. *Barclays Bank PLC* and its bank holding company subsidiary, *Barclays Bank International Limited*, London, England (leasing activities; Georgia and Alabama): To engage through their subsidiary, BarclaysAmerican/Leasing, Inc., ("BAL"), in lease financing of personal property by means of leases that meet the standards of Section 225.4(a)(6) of Regulation Y. This activity would be conducted from an office of BAL to be relocated from Chamblee, Georgia, to Norcross, Georgia, serving Georgia and Alabama. Comments on this application must be received not later than June 8, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Virginia National Bankshares, Inc.*, Norfolk, Virginia (financing and insurance activities; Florida): To engage, through a subsidiary known as VNB Equity Corporation, in the following activities: making, acquiring, and servicing, for its own account or for the account of others, loans secured principally by second mortgages on real property, and acting as an agent in the sale of credit life insurance and accident and health insurance in connection with such loans. Such activities will be conducted from an office in Plantation, Florida and will serve Plantation and the surrounding area. Comments on this application must be received not later than June 7, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Central Pacific Corporation*, Bakersfield, California (data processing services and management consulting; California and Arizona): To engage, through its subsidiary, CPC Financial Corporation, in data processing of financial and banking data of affiliated companies and others, and in management consulting to affiliated and non-affiliated bank and non-bank depository institutions. These activities would be conducted from an office in Bakersfield, California, serving the states of California and Arizona. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 12823 Filed 5-11-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Ultramar Public Ltd. Co. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction and Waiting Period Terminated Effective—

(1) Transaction Number 83–0220 Ultramar Public Limited Company's proposed acquisition of all voting securities of Pittston Petroleum, Incorporated (The Pittston Company, UPE)—April 21, 1983

(2) Transaction Number 83–0254, GFI/Knoll International Holding Company's proposed acquisition of voting securities of Sotheby Parka Bernet Group p.l.c.—April 21, 1983

(3) Transaction Number 83–0205, The Dun & Bradstreet Corporation's proposed acquistion of all voting securities of McCormack & Dodge Corporation—April 22, 1983

(4) Transaction Number 83–0257, Alpha Sierra, Incorporated's proposed acquistion of assets of Baxter Travenol Laboratories, Incorporated—April 22, 1983

(5) Transaction Number 83–0258, Duckwall-ALCO Stores Incorporated's proposed acquisition of all voting securities of Sterling Stores Company, Incorporated—April 21, 1983

(6) Transaction Number 83–0249, Occidental Petroelum Corporation's proposed acquistion of certain voting securities of The Southland Corporation—April 21, 1983

(7) Transaction Number 83–0247, The Southland Corporation's proposed acquistion of all voting securities of Cities Service RMT Corporation—(Occidental Petroleum Company UPE)—April 21, 1983

(8) Transaction Number 83–0259, InterNorth, Incorporated's proposed acquisition of all voting securities of Belco Petroleum Corporation—April 27, 1983

(9) Transaction Number 83–0270, Jefferson Smurfit Group Limited's proposed acquisition of voting securities of The Diamond Match Company (Sir James Goldsmith, UPE)—April 28, 1983

(10) Transaction Number 83–0229, Texaco, Incorporated's proposed acquisition of certain voting securities of Pogo Producing Company—April 11, 1983

(11) Transaction Number 83–0276, Austin Industries, Incorporated's proposed acquisition of all voting securities of National Valve and Manufacturing Company (Henry E. Haller, Jr., UPE)—April 28, 1983

(12) Transaction Number 83–0268, Hughes Properties, Inc.'s proposed acquisition of all assets of Sands Hotel and Casino, Incorporated (Pratt Hotel Corporation, UPE)—April 28, 1983

(13) Transaction Number 83–0240, Heizer Corporation's proposed acquisition of all voting securities of Sea Pines Company—April 28, 1983

For further information contact: Patricia A. Foster, Compliance, Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-12729 Filed 5-11-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given

that the National Committee on Vital and Health Statistics (NCVHS), established pursuant to 42 U.S.C. 242(k), section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday, June 13, 1983, at 9:00 a.m. and Tuesday, June 14, at 9:00 a.m., in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Agenda items for discussion will include continuing discussion of priority needs in health data, discussion of Committee structure and discussion of progress on selected statistical activities. Agenda items are subject to change as priorities dictate.

Further information regarding this Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301-436-7051.

Dated: April 29, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-12820 Filed 5-11-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Village of Chalkyitsik, Alaska; Ordinance Prohibiting the Introduction, Possession, and Sale of Intoxicating Beverages

April 27, 1983.

This Notice is published in accordance with authority delegated by the Secretary of Interior to the Assistant Secretary-Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Chalkyitsik Liquor Ordinance relating to the application of the Federal Indian Liquor Laws within an area of Indian country was duly adopted by the Chalkyitsik Village Council on March 18, 1982. The Chalkyitsik Liquor Ordinance reads as follows:

John E. Fritz,

Acting Assistant Secretary, Indian Affairs.

Code of Village Regulations

Chalkyitsik, Alaska

Chapter 10—Definitions and Scope

10.01 *Enabling Action:* Pursuant to the authority granted to the Village Council under Article III of the Bylaws of the Village of Chalkyitsik, the village council enacts the following to be the code of village regulations.

10.05 *Village Regulations, Purpose:* To set forth a code of village regulations that will govern the conduct of people within the boundaries of the Chalkyitsik village townsite so that no infringement will be made upon individual rights or the peace and dignity of the people, the village, and the State of Alaska.

10.10 *Village Regulations:* Are the rules that all persons shall obey when within the boundaries of the Chalkyitsik village townsite. Regulations shall be enacted by the council to protect the life, property, and welfare of the people and village. New rules may be enacted to the regulations by the council as the need arises.

10.15 *Chalkyitsik Village Boundaries:* The boundaries of the Chalkyitsik village townsite shall be the boundaries as surveyed and marked by the Bureau of Land Management as shown on the plat marked Chalkyitsik Townsite.

10.20 *Village Council:* For the purpose of these regulations, the village council shall mean the council members as provided under Article VII of the Bylaws of the Village of Chalkyitsik.

10.30 *Village Member:* A village member shall be as defined under Article IV of the Bylaws of the Village of Chalkyitsik and shall include all stockholders of the Chalkyitsik Native Corporation.

10.40 *Village VPSO:* For the purposes of these regulations, the Village Public Safety Officer shall be a person appointed or so designated by the village council, and shall serve at the pleasure of the Council.

10.50 *Dry Village:* A dry village shall mean that no alcoholic beverages shall be transported to, sold, or consumed by any person or persons within the boundaries of the Chalkyitsik village townsite.

10.55 *Alcohol, or Intoxicating Beverages:* Shall include all forms of alcohol of intoxicating beverages which are manufactured, sold, and commonly used for human consumption.

10.60 *Hallucinogenic Drugs and Substances:* Shall include all those drugs and substances which are illegal under state and federal laws.

10.65 *Possession:* Possession shall mean on his person, under his control, or on his property. It shall also mean on her person, under her control, or on her property.

10.70 *Weapons:* Weapons shall mean all high powered rifles, shotguns, hand guns, and knives, or any other instruments that are dangerous when used against or to the disadvantage of any person or persons.

10.75 *Surface Vehicles:* Surface vehicles shall include all motor vehicles driven within the boundaries of the Chalkyitsik village townsite.

10.80 *Speed:* Shall mean the rate of motion of any surface motor driven vehicle within the boundaries of the Chalkyitsik village townsite.

10.85 *Summer Months:* Shall be from the last day of school in the spring to the first day of school in the fall.

10.90 *Minors:* Shall include all persons under the age of eighteen (18).

Chapter 20—Liquor Control

Purpose of this regulation is to provide for a dry village as clearly mandated by the people in the form of a petition against the drug and alcohol abuse and the resulting disorder and problems which occur as a direct result of such abuse.

20.01 *Regulation:* No person or persons will transport to, or cause to be transported to the Village of Chalkyitsik, intoxicating liquor for the purpose of selling or consuming such intoxicating liquor within the boundaries of the Chalkyitsik village.

20.05 *Possession:* No person or persons will possess by consumption or otherwise intoxicating liquor within the boundaries of the Chalkyitsik village.

20.10 *Complaints and Enforcement:* This chapter shall be enforced as a civil matter under Sec. 90.20 of this code. In addition, to village enforcement of this chapter, a person unlawfully introduces, possesses and/or sells intoxicating beverages contrary to 18 U.S.C. § 1161 (or any subsequently enacted law relating to federal regulation of intoxicating beverages in Indian county) by

(a) introducing, selling or possessing intoxicating beverages within the Indian country of the Village of Chalkyitsik contrary to this chapter, and

(b) such a determination is found pursuant to the tribal judicial code, and

(c) said person fails to comply with a duly entered tribal court order.

The First Chief of the Village of Chalkyitsik is hereby authorized to request federal enforcement of 18 U.S.C. § 1161 (or any subsequently enacted federal regulation of intoxicating beverages in Indian country) in the event that this section is violated.

Certification

I, *James Nathaniel, Sr.* hereby certify that the Code of Village Regulations was revised and approved by the Chalkyitsik

Village Council at a duly called meeting of this 17th day of January, 1983.

James Nathaniel, Sr.,

1st Chief.

Attest: Robin Thomas.

[FR Doc. 83-12693 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[A-18560]

Arizona; Order Providing for Opening of Public Lands: Correction

May 4, 1983.

In Federal Register Document 80-27949 appearing on Page 66028 in the issue of September 11, 1980, make the following changes:

The legal description for T. 6 N., R. 2 E., Section 27 is changed to read "E½W½".

The legal description for T. 7 N., R. 2 E., Section 26 is changed to read "lots 4, 5, 6, 22, 23, 25, 26, lots 35 and 36 (formerly lots 11 and 12), lots 55, 56, 57, 58, NE¼NW¼, N½NE¼SE¼NW¼, S½SW¼SE¼NW¼, SE¼SE¼NW¼ (formerly E½NW¼)".

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-12701 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18560]

Arizona; Order Providing for Opening of Public Lands

May 4, 1983.

1. By Order P-150 dated May 6, 1976, the Federal Power Commission (now the Federal Energy Regulatory Commission) vacated the land withdrawal in its entirety for Power Project 150 of May 24, 1921, August 26, 1921, May 12, 1922, April 18, 1936, and May 5, 1952, as to the following described lands:

Gila and Salt River Meridian, Arizona

All portions of the following tracts lying within 20 feet of the centerline of the transmission line location shown on maps designated as Exhibit J(1), Sheets 1 to 8, inclusive, and entitled "Map of Location of Transmission Line of the Pacific Gas and Electric Company", and filed in the office of the Federal Power Commission on May 16, 1921:

T. 3 N., R. 2 E.,
Sec. 11, SE¼SE¼;
Sec. 14, NE¼NE¼.
T. 4 N., R. 2 E.,
Sec. 1, W½SW¼;
Sec. 12, W½W½;
Sec. 13, W½W½;
Sec. 25, W½NW¼.
T. 5 N., R. 2 E.,
Sec. 3, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 11, W½NW¼, SW¼;
Sec. 14, E½W½;
Sec. 23, E½W½;
Sec. 26, SW¼NE¼, E½NW¼, NE¼SW¼, W½SE¼;
Sec. 35, NW¼NE¼, SE¼NE¼.
T. 6 N., R. 2 E.,
Sec. 22, SW¼NW¼.
T. 7 N., R. 2 E.,
Sec. 35, NW¼NW¼.
T. 8 N., R. 2 E.,
Sec. 3, lot 1;
Sec. 22, SW¼SW¼;
Sec. 27, NW¼NW¼, SE¼SW¼, W½SW¼.
T. 9 N., R. 2 E.,
Sec. 25, S½SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼.
T. 9 N., R. 3 E.,
Sec. 19, SE¼SE¼;
Sec. 20, SE¼NE¼, NE¼SW¼, S½SW¼.

The areas described aggregate approximately 34 acres in Maricopa and Yavapai Counties.

2. The surface estate of the lands described in paragraph 1 has been conveyed out of Federal ownership. Therefore, these lands will not be open to operation of the public land laws.

3. Of the lands described in paragraph 1, the mineral estate in the following described lands was reserved to the United States and remains under the jurisdiction of the Bureau of Land Management:

T. 7., R. 2 E.,
Sec. 35, NW¼NW¼.

The area described aggregates approximately one area in Maricopa County.

4. At 10:00 a.m. on May 10, 1983, the land described in paragraph 3 shall be open to the operation of the United States mining laws, subject to valid existing rights and the requirements of applicable law.

5. The land described in paragraph 3 has been and remains open to applications and offers under the mineral-leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-12700 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Phoenix District Advisory Council; Meeting

The first meeting of the newly-appointed Phoenix District Advisory Council will be held June 15, 1983, between 9:00 a.m. and 5:00 p.m. The meeting will be held at the District Headquarters, 2929 West Clarendon Avenue, Phoenix, Arizona. The Council has been established by, and will be managed according to, the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:

1. Introduction of Council members.
2. Discussion of agenda, meeting objectives and function of the Council.
3. Discussion of District organization, resources, and current activities.
4. Issues and programs in the Lower Gila, Kingman, and Phoenix Resource Areas.
5. Election of officers.
6. Public comment and statements.
7. Discussion of Council objectives.
8. Future meetings and agenda topics.

The meeting is open to the public. Interested persons may make oral statements to the Council between 3:30 p.m. and 4:00 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by June 10 1983. Depending on the number of persons wishing to make an oral statement, a per-person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within thirty days following the meeting.

For further information contact Jean Ghigo, (602) 241-2903.

Dated: May 4, 1983.

William K. Barker,

District Manager.

[FR Doc. 83-12699 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado: Filing of Plats of Survey

May 5, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., May 5, 1983.

Sixth Principal Meridian

T. 9 N., R. 79 W.

The plat representing the dependent resurvey of a portion of the east and north boundaries, subdivisional lines, and the subdivision of section 13, and

the survey of the subdivision of certain sections, T. 9, N., R. 79 W., Sixth Principal Meridian, Colorado, Group 683, was accepted April 20, 1983.

This survey was excecuted to meet certain administrative needs of this Bureau.

T. 25 S., R. 58 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 25 S., R. 58 W., Sixth Principal Meridian, Colorado, Group 549, was accepted April 27, 1983.

This survey was excecuted to meet certain administrative needs of the U.S. Forest Service.

New Mexico Principal Meridian

T. 40 N., R. 11 E.

The plat representing the dependent resurvey of a portion of the south, east, and west boundaries and a portion of the subdivisional lines, T. 40 N., R. 11 E., New Mexico Principal Meridian, Colorado, Group 716, was accepted April 12, 1983.

T. 41 N., R. 11 E.

The plat representing the dependent resurvey of a portion of the south, boundary of Luis Maria Baca Grant No. 4 (north boundary), the Tenth Standard Parallel North (south boundary), the west boundary and a portion of the subdivisional lines, and the subdivision of section 23, T. 41 N., R. 11 E., New Mexico Principal Meridian, Colorado, Group 716, was accepted April 12, 1983.

These survey were excecuted to meet certain administrative needs of the Bureau of Reclamation.

T. 48 N., R. 17 W.

The plat, in 5 sheets, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 26, and certain mineral surveys, and the survey of the subdivision of section 26, and certain tracts, T. 48 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group 729, was accepted April 21, 1983.

This survey was excecuted to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Harold R. Martin,

Chief, Division of Operations.

[FR Doc. 83-12694 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20087]

Realty Action; Competitive Sale of Public Lands; Cassia County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-20087, Competitive Sale of Public Lands In Cassia County, Idaho.

SUMMARY: The following land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of the tract is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976. The lands will be offered for sale at public auction for no less than the appraised fair market value indicated below. Both sealed and oral bids will be accepted.

Legal description	Acres	Value
T. 15 S., R. 24 E., B.M. Sec. 22: SW¼NE¼	40	$5,000

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year perod.

The lands will be subject to the following reservations when patented:

1. Ditches and Canals.
2. Oil and Gas and Geothermal rights.
3. Oil and Gas lease I-18032.

The public auction will be held on July 27, 1983 at 1:30 p.m.

ADDRESSES: The public auction will be held at the Burley District Office, 200 South Oakley Highway, Burley, Idaho 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from Nick Cozakos, District Manager at the above address, or by calling (208) 678-5514.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Nick James Cozakos.

Dated: May 2, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83-12705 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13733]

Realty Action—Lease of Public Lands in Shasta County, Calif.

The following-described land has been identified as suitable for lease under Section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732, at no less than fair market value.

Legal Description: T. 32 N., R. 5 W., Section 30, M.D.M., California, as described by metes and bounds on Exhibit A.

Acreage: Approximately 0.61 acres.

Rental Value: $390 year (estimated).

The above-described land is being offered as a direct, noncompetitive lease to William Dowell, owner of the improvements (house and garage) on the lease tract. The subject lands are adjacent to Iron Mountain Road approximately four miles west of Redding.

The subject lands were previously leased to W. E. and Libby Alexander. Mr. Dowell acquired the improvements from Mrs. Alexander subsequent to Mr. Alexander's death.

This decision notice is based on the following reasons:

1. The land is not of national significance and not essential to any Bureau of Land Management program.

2. The proposed action will not have any significant (including controversial) effects on the human and natural environment.

3. The proposed use is in conformance with the existing land use plan.

For a period of 45 days from this notice, interested parties may submit comments on the proposed lease or its environmental consequences to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: May 4, 1983.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 83-12703 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19182]

Realty Action; Modified Competitive Sale of Public Lands; Lemhi County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-19182, Modified Competitive Sale of Public Lands in Lemhi County, Idaho.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($8,000).

T.21N., R.23E., Boise Meridian
Section 14: N½SW¼W¼,
Section 15: SE¼NE¼NE¼,SE¼SE¼NE¼
Total, 40 acres

The land will be sold at public auction by modified competitive bidding. William B. Swahlen, Rt. 1, Salmon, Idaho 83467 owner of all adjacent property, will have a preference right to purchase the land. Such a preference is being offered because he has access to the tracts and has used the land for agricultural production. Several irrigation ditches also cross through the tract and are used in conjunction with his adjacent farming operation.

The location and physical characteristics of this isolated tract make it difficult and uneconomic to manage as public land. The sale is consistent with the Bureau's planning for the area. The land has not been used and is not required for any federal purpose. Disposal would best serve the public interest by facilitating proper land use planning and development. The sale would enhance land use compatibility with adjoining private land.

Patent, when issued, will contain the following reservations:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

2. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

3. All valid existing rights and reservations of record including: (a) Oil and gas lease I-16485

4. The right of the United States or its permittees or licensees to enter upon, occupy, and use any or all of such lands for power purposes under Section 24 of the Federal Power Act for Power Site Reserve 595 (E.O. dated April 4, 1917).

The sale will be held at the Salmon BLM District Office, Highway 93 South, Salmon, Idaho on Thursday, July 21, 1983 at 3:00 p.m.

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $8,000. Bids must be for all the land in the specified tract.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, prior to a 3:00 p.m. bid opening on July 21, 1983. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale, I-19182". If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing. The drawing, if required shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Modified Bidding: For a period of 30 days following the date of the sale, William B. Swahlen will have a preference right to purchase the land by meeting the highest bid. If he meets the highest bid, the land will be sold to him, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Thursday at the same hour and place and continued on each succeeding Thursday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

FOR FURTHER INFORMATION CONTACT:

Inquiries: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Salmon District Office, Highway 93 South, Salmon, Idaho. For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Kenneth G. Walker,

District Manager.

[FR Doc. 83-12696 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19181]

Realty Action; Modified Competitive Sale of Public Lands; Lemhi County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-19181, Modified Competitive Sale of Public Lands in Lemhi County, Idaho.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat.

2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($12,000):

T. 21 N., R. 23 E., Boise Meridian
Section 10: W½NE¼, SE¼NW¼
Total, 120 acres

The land will be sold at public auction by modified competitive bidding. Bolton Ranch, Inc. Rt. 1, Box 14 and William B. Swahlen, Rt. 1, both of Salmon, Idaho 83467, are the adjoining landowners who will have a preference right to purchase the tract. This preference is being offered because there is no public access to the tract and both Bolton Ranch and Mr. Swahlen have access.

Mr. Swahlen has used this land as part of his adjoining livestock operation. This tract is also fenced in with Swahlen's private land. A modified sale would afford compatible future uses and resolve the unauthorized livestock use without jeopardizing the present uses.

The location and physical characteristics of this isolated tract make it difficult and uneconomic to manage as public land. The sale is consistent with the Bureau's planning for the area. The land has not been used and is not required for any federal purpose. Disposal would best serve the public interest by facilitating proper land use planning and development. The sale would enhance land use compatibility with adjoining private land.

Patent, when issued, will contain the following reservations:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

2. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

3. All valid existing rights and reservations of record including:

(a) Oil and gas lease I–16485.

(b) The right of the United States or its permittees or licensees to enter upon, occupy, and use any or all of such lands for power purposes under Section 24 of the Federal Power Act for Power Site Reserve 595 (E.O. dated 4/4/1917).

The sale will be held at the Salmon BLM District Office, Highway 93 South, Salmon, Idaho on Thursday, July 21, 1983 at 1:00 p.m.

Bidder *Qualifications:* The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $12,000. Bids must be for all the land in the specified tract.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, prior to a 1:00 p.m. bid opening on July 21, 1983. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale, I–19181". If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing. The drawing, if required shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00 Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Modified Bidding: For a period of 30 days following the date of the sale, Bolton Ranch, Inc. and William B. Swahlen will have a preference right to purchase the land by meeting the highest bid. They will determine the division of the land. If no agreement is reached the authorized officer will determine the division. If either or both of them meet the highest bid, the land will be sold to them, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final Details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on tl e sale date, the sale will be adjourned until the next Thursday at the same hour and place and continued on each succeeding Thursday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

FOR FURTHER INFORMATION CONTACT:

Inquires: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Salmon District Office, Highway 93 South, Salmon, Idaho. For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Kenneth G. Walker,

District Manager.

[FR Doc. 83-12697 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 24622, Survey Group 121]

Minnesota; Filing of Plat of Survey

1. On December 6, 1979, the plat representing the survey of an island in T. 59 N., R. 26 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 59 N., R. 26 W.,
Tract No. 37.

2. Tract No. 37 rises about 5 feet above the ordinary high water mark of Smith Lake and is composed of glacial till and boulders up to 4 feet in diameter. Its edaphic character is entirely similar to the mainland, supports the same vegetation and has always been vegetated similarly to the upland surrounding the lake. This is evidenced by old pine stumps which were in excess of 20 inches in diameter when cut many years ago; these stumps indicate an age of 90 years by growth ring count. The age of these stumps and the elevation and composition of the soil show conclusively that the island

existed in 1858 when Minnesota was admitted into the Union and all subsequent dates.

3. The Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

4. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12684 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32055, Survey Group 142]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of one island in T. 34 N., R. 30 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 34 N., R. 30 W.,
Tract No. 37.

2. The island Tract No. 37 rises about 7 feet above the ordinary high water mark of Stickney Lake and is composed of glacial till parent material. Timber on the island consists of ash, basswood, willow, aspen, elm, oak, and cedar. Trees up to 24 inches in diameter and 100 years of age were found on the island. Tree stumps ranging up to 30 inches in diameter were found on the island.

3. The elevation of the island, age of timber, presence of large tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12685 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32056, Survey Group 142]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of one island in T. 35 N., R. 31 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 35 N., R. 31 W.,
Tract No. 37.

2. The island Tract No. 37 rises 4 feet above the ordinary high water mark of Mississippi River and is composed of glacial till parent material. The character of the island is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of silver maple, willow, ash, and elm. The largest of the dominant trees on the island is a silver maple measuring 30 inches in diameter and is approximately 100 years of age.

3. This island was noted in the 1859 survey by Robert D. Lancaster, Deputy Surveyor. This fact, along with the elevation of the island, age of timber, similarity of timber succession on the island and adjacent surveyed lands, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858, when Minnesota was admitted into the Union, and at all subsequent dates.

4. Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). Therefore, it is held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12686 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32057, Survey Group 150]

Minnesota; Filing of Plats of Survey

1. On October 5, 1982, the plats representing the survey of two islands in Cedar Lake in T. 46 N., R. 27 W., Fourth Principal Meridian, Minnesota, were accepted. They will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 46 N., R. 27 W.,
Tract Nos. 37 and 38.

2. Tract No. 37 rises about 5 feet above the ordinary high water mark of Cedar Lake and is composed of glacial till parent material with large granite boulders. The character of this island is similar in all respects to that of the adjacent surveyed lands. Timber consists of cedar, oak, basswood, ash, and elm. An oak tree which measured 20 inches in diameter was aged at 90 years. Tree stumps were also found on the island.

The island Tract No. 38 rises about 3 feet above the ordinary high water mark of Cedar Lake and is composed of glacial till parent material with large granite boulders. The character of this tract is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of ash, elm, basswood, willow, and dogwood. A willow tree measuring 20 inches in diameter was aged at 80 years old. Tree stumps were found on this Tract.

3. The elevation of the islands, age of timber, presence of tree stumps, similarity of timber succession on the islands and mainland, composition of the soil and character of the channels, show conclusively that these Tracts of land existed as islands in 1858 when Minnesota wad admitted into the Union, and at all subsequent dates.

4. The areas described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

5. All inquiries relating to these islands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12687 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32045, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of an island in Perch Lake, T. 131 N., R. 38 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 131 N., R. 38.,
Tract No. 37.

2. Tract No. 37 rises about 4 feet above the ordinary high water mark of Perch Lake, and is composed of glacial till parent material with large granite boulders. The character of the island is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of birch, aspen, oak, basswood, willow, and ash. Tree stumps were found on the Tract No. 37.

3. The elevation on the island, age of tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, how conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The island described above was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). it is therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Mineral Operations.

[FR Doc. 83-12888 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32046, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of two islands in Lake Mason in T. 134 N., R. 43 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omited form the original survey.

Fifth Principal Meridian, Minnesota

T. 134 N., R. 43 W.,
Tracts 37 and 38.

2. The island Tract No. 37 rises about 15 feet above the ordinary high water mark of Lake Mason, and is composed of glacial till parent material. Timber consists of elm, oak, basswood, ash, willow, cedar, and aspen. An elm tree measuring 27 inches in diameter was found on this Tract and is aged at approximately 135 years. Tree stumps were found on the island.

Tract No. 38 rises about 12 feet above the ordinary high water mark of Lake Mason and is composed of glacial till parent material. Timber consists of elm, ash, oak, willow, basswood, box elder, cottonwook, birch, and balsam poplar. An elm tree measuring 24 inches in diameter was aged at about 120 years.

3. The elevation of the islands, age of timber, similarity of timber succession on the islands and mainland, composition of the soil and character of the channel, show conclusively that these Tracts of land existed as islands in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The areas described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

5. All inquiries relating to these lands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12889 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32051, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of an island in Tom's Lake, T. 1231 N., R. 39 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 131 N., R. 39 W.,
Tract No. 37.

2. The island Tract No. 37 rises about 10 feet above the ordinary high water mark of Tom's Lake, and is composed of glacial till parent material with large granite boulders. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of elm, oak, ash, basswood, aspen, willow, and ironwood. An oak tree measuring 14 inches in diameter was found on the island and was aged at approximately 80 years. Tree stumps were found on the Tract.

3. The elevation of the island, age of timber, presence of large tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The island described above was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12890 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32052, Survey Group 132]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of 5 islands in T. 117 N., R., 30 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 117 N., R. 30 W.,
Tracts 37, 38, 39, 40, and 41.

2. Tract No. 37 rises about 8 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and granite boulders up to 4 feet in diameter. Its character is similar in all respects to that of the adjacent surveyed lands. Timber consists of oak, elm, ash, cottonwood, box elder, and willow. An elm tree measuring 20 inches in diameter and was aged at about 80 years. Old tree stumps were found on the island.

The island Tract No. 38 rises about 6 feet above the ordinary high water mark

of Cedar Lake, and is composed of glacial till and outcrops of granite. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of oak, elm, ash, basswood, and cottonwood. The ground cover consists of dense growth dogwood and willow. An elm tree measuring 20 inches in diameter was aged at approximately 80 years. Old tree stumps were found on this Tract.

Tract No. 39 rises about 6 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and outcrops of granite. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of elm, ash, box elder, basswood, cottonwood, aspen, and willow. The ground cover consists of dense growth willow. Old stumps were found on the island. An elm tree measuring 20 inches in diameter was aged at approximately 80 years.

The island Tract No. 40 rises about 6 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and granite boulders ranging up to 5 feet in diameter. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of oak, elm, ash, basswood, box elder, and willow. The ground cover consists of dense growth snowberry and willow. An elm tree measuring approximately 16 inches in diameter was aged at approximately 70 years. Tree stumps were found on the island.

Tract No. 41 rises about 10 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till. Its character is similar in all respects to that of the adjacent surveyed lands. Timber consists of ash, elm, oak, and basswood. The ground cover consists of willow and snowberry shrubs. An elm tree measuring 16 inches in diameter was aged at approximately 80 years. Tree stumps 30 inches in diameter and aged at approximately 150 years were found on the island.

3. The elevation of the islands, presence of old stumps, similarity of timber succession on the islands and mainland, composition of the soil and character of the channel, show consclusively that these bodies of land existed as islands in 1858 when Minnesota was admitted in to the Union, and at all subsequent dates.

4. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore held to be public land.

5. All inquiries relating to these islands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12961 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[M 56116]

Conveyance of Public Lands; Montana

May 5, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Lands, Montana.

SUMMARY: Notice is hereby given that, pursuant to Section 206 of the Act of October 21, 1976, the following described public lands were transferred to various private parties in exchange for certain other lands or interests in lands:

Principal Meridian, Montana

John R. Hughes

T. 13 N., R. 24 E.,
Sec. 2, NW¼SE¼.
40 acres.

A. Russell and Betty Ann Gjerde

T. 14 N., R. 24 E.,
Sec. 23, NE¼NW¼;
Sec. 33, NE¼SW¼;
Sec. 35, NW¼NW¼, NE¼SW¼.
160 acres.

George Poetter or Alice Poetter

T. 16 N., R. 20 E.,
Sec. 35, NE¼SE¼.
40 acres.

Tom Duffy

T. 16 N., R. 21 E.,
Sec. 25, SE¼.
160 acres.

Bruce Brown or Shirley Brown

T. 17 N., R. 17 E.,
Sec. 12, NW¼NW¼.
40 acres.

Eleanor L. Fields

T. 17 N., R. 21 E.,
Sec. 34, SE¼NW¼.
40 acres.

William D. Snapp

T. 18 N., R. 17 E.,
Sec. 20, SW¼SW¼.
40 acres.

M. R. Norman, et al.

T. 19 N., R. 17 E.,
Sec. 21, SE¼SE¼;
Sec. 22, SE¼NW¼;
Sec. 27, SW¼NW¼.
120 acres.

Gail Barnes or Patricia Barnes

T. 19 N., R. 17 E.,
Sec. 25, NW¼NW¼;
Sec. 26, SE¼NE¼.
80 acres.

Sherry Arntzen

T. 19 N., R. 19 E.,
Sec. 14, W½W½.
160 acres.

J. A. Martin

T. 19 N., R. 19 E.,
Sec. 18, S½NE¼, N½SE¼.
160 acres.

Roger Siroky

T. 19 N., R. 23 E.,
Sec. 30, Lots 1 & 2.
76.12 acres.

Harold W. Kinkelaar

T. 22 N., R. 20 E.,
Sec. 20, W½NE¼, SE¼NE¼.
120 acres.

Teigen Land and Livestock Co., Inc.

T. 14 N., R. 28 E.,
Sec. 8, NW¼NW¼.
40 acres.

Manuel Ranch, Inc.

T. 15 N., R. 29 E.,
Sec. 21, W½NW¼.
80 acres.

Roland R. and Ramona A. Sahn

T. 19 N., R. 28 E.,
Sec. 32, NW¼SE¼.
40 acres.

Floyd J. Zonto

T. 21 N., R. 9 E.,
Sec. 5, Lot 2.
T. 22 N., R. 9 E.,
Sec. 33, SW¼NW¼.
81.20 acres.

Leo M. and Beverly J. Faber

T. 27, N., R. 16 E.,
Sec. 5, SW¼SE¼;
Sec. 7, Lot 3, NE¼SW¼.
111.25 acres.

Robert E. and Emma M. Braun

T. 26 N., R. 11 E.,
Sec. 4, SW¼NW¼, NW¼SW¼;
Sec. 5, SE¼NE¼.
120 acres.

JPS Ranches

T. 13 N., R. 12 E.,
Sec. 4, SW¼NW¼;
Sec. 31, NE¼SW¼.
80 acres.

Circle Bar Guest Ranch, Inc.

T. 13 N., R. 12 E.,
Sec. 19, Lots 1 and 2.
79.84 acres.

William A. Meeks, Jr.

T. 17 N., R. 11 E.,
Sec. Sec. 1, Lots 1 and 4.
79.47 acres.

Robert and Jean Anderson

T. 18 N., R. 11 E.,
Sec. 2, E½SE¼, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 9, SW¼SE¼;
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, W½NW¼, NW¼SW¼;
Sec. 12, SE¼NW¼, NE¼SW¼;
Sec. 13, Lot 4;
Sec. 15, NW¼NW¼.
560.27 acres.

Gordon M. Ecker

T. 18 N., R. 11 E.,
Sec. 13, Lots 5, 6, NW¼SE¼.
119.46 acres.

Sarah A. Arnott

T. 13 N., R. 12 E.,
Sec. 32, SE¼NW¼.
40 acres.

Warren E. and Ruth Anne Weaver

T. 19 N., R. 27 E.,
Sec. 32, NE¼SE¼.
40 acres.

Ray C. and Erna A. Ramberg

T. 31 N., R. 18 E.,
Sec. 29, SW¼NE¼.
40 acres.

Arthur Burns

T. 34 N., R. 21 E.,
Sec. 6, SE¼NE¼, NW¼SE¼.
80 acres.

Louis and Della F. Modic

T. 34 N., R. 24 E.,
Sec. 23, SE¼NE¼; SW¼SW¼;
Sec. 26, S½NE¼, S½;
Sec. 27, SE½SE½.
520 acres.

Rodney Hofeldt

T. 28 N., R. 19 E.,
Sec. 29, NW¼SE¼;
Sec. Sec. 30, W½SE¼.
120 acres.

Douglas Hofeldt

T. 29 N., R. 22 E.,
Sec. 4, Lots 1, 2, 3, 4.
T. 30 N., R. 22 E.,
Sec. 28, Lot 12.
83.70 acres.

Wasyl Hryckiw

T. 32 N., R. 22 E.,
Sec. 5, SW½NW¼.
40 acres.

Thomas E. Maxwell

T. 28 N., R. 11 E.,
Sec. 1, SE¼NE¼, SE¼NW¼.
80 acres.

Kenneth C. and Neil Glass

T. 19 N., R. 16 E.,
Sec. 5, Lot 4.
36.49 acres.

Wilson J. and Virginia F. Richards

T. 19 N., R. 22 E.,
Sec. 19, NE¼NW¼.
40 acres.
Total acreage: 3,747.8.

The purpose of this notice is to inform the public interested state and local government officials of the issuance of the conveyance documents.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-12998 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[M 55146]

Montana; Order Providing for Opening of Public Lands

May 3, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: M 55146, Order Providing for Opening of Public Lands in Rosebud and Custer Counties, Montana.

SUMMARY: Pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to the United States:

Principal Meridian, Montana

T. 12 N., R. 44 E.,
Sec. 12, ALL.
T. 12 N., R. 45 E.,
Sec. 6, Lots, 1, 2, 3, 4, 5, 6 and 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots, 1, 2, 3 and 4, E½, E½W½;
Sec. 8, NW¼SW¼, N½SE¼; and
Sec. 18, NE¼, N½SE¼, SE¼SE¼.
Aggregating 2,136.19 acres

The grantor reserved all right and title to all minerals existing on the lands, except coal where it was reserved to the United States in the original patent.

This order restores the land acquired by the United States to the operation of the public land laws generally. At 9 a.m. on June 20, 1983, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on June 20, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Edgar D. Stark,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 83-12992 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[N-37749]

Nevada; Proposed Withdrawal and Opportunity for Public Meeting

On May 3, 1983, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

A parcel of land within the S½NW¼ of Section 1, T. 34 N., R. 55 E., MDM, Elko County, Nevada, and more particulary described as follows:

Beginning at the point of intersection of the east-west quarter-section line of said Section 1 and the newly adopted southerly right-of-way line of former U.S. Highway 40 (now 40 feet southeasterly from centerline of said highway), as Corner No. 1, from which point the West quarter-section corner of said Section 1 bears S. 89°08'02" W. 576.09 feet.

thence along said new ritght-of-way, from a tangent bearing N. 38°31'09" E. on a curve to the right, with a radius of 9960 feet, through a central angle of 0°38'59" an arc distance of 112.95 feet, to Corner No. 2,

thence continuing along said new right-of-way N. 39°10'08" E. 474.25 feet to Corner No. 3,

thence N.. 89°08'02" E. 849.20 feet to Corner No. 4,

thence S. 0°51'58" E. 450.00 feet to Corner No. 5, a point on the east-west quarter-section line of said Section 1,

thence along said line S. 89°08'02" W. 1226.43 feet to Corner No. 1, the point of beginning.

The area described contains 10.7 acres in Elko County.

The purpose of the proposed withdrawal is to reserve the land for use as the Bureau of Land Management Elko office complex which will consolidate three existing facilities into one administrative site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a

notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with regulations set forth in 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the Federal Register, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. Construction of the administrative site will be permitted during this segregative period under a right-of-way authorization.

All communications in connection with this proposed withdrawal should be addressed to the Deputy State Director, Operations, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

May 3, 1983.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-12702 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202-395-7340.

Title: 30 CFR Part 221.37, Site Security on Federal and Indian (except Osage) Oil and Gas Leases.

Bureau Form Number: None.

Frequency: Nonrecurring.

Discription of Respondents: Lessees and/or operators of Federal and Indian (except Osage) Oil and Gas resources.

Annual Respondents: 201, 080.

Annual Burden Hours: 94, 809.

Bureau Clearance Office (alternate): Linda Gibbs, 202-653-8853.

Dated: April 12, 1983.

James M. Parker,

Associate Director, Bureau of Land Management.

[FR Doc. 83-12704 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58045]

Realty Action: Exchange of Public and Private Lands in Valley County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-58045, Exchange of Public and Private Lands in Valley County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 36 N., R. 41 E.
Sec. 7: N½SE¼
Aggregating 80 acres of public land

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 35 N., R. 37 E.
Sec. 26: N½NE¼
Aggregating 80 acres of private land

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire private lands for enhancement of the Bureau's grazing, wildlife and recreation programs. In return, an isolated parcel of public land would be transferred to private ownership. The value of the lands are equal. The proposed exchange will benefit public needs and improve manageability of public lands. The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 4 U.S.C. 945, for the lands being transferred out of Federal ownership.

2. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

3. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

This exchange is consistent with Bureau of Land Management policies and has been discussed with local officials. The public interest will be well served by completion of this exchange.

Segregation: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

Dated: May 6, 1983.

James Barnum,

Acting District Manager.

[FR Doc. 83-12741 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81125]

Conveyance; Non-Competitive Sale of Public Land in Sweetwater County, Wyoming

May 4, 1983.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), the City-School Joint Recreation Board, Green River, Wyoming, has purchased, by noncompetitive sale, and received a patent for the following described public land in Sweetwater County, Wyoming, for use as a city/school public recreation complex:

Sixth Principal Meridian

T. 18 N., R. 107 W.,
Sec. 34, NE¼SE¼NE¼.
Aggregating 10.00 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-12740 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Escondido Project Area; Realty Action for Public Lands in San Diego County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty action and Recreation and Public Purposes Classificaftion and Lease and or Patent of Public Lands in San Diego County.

SUMMARY: Notice is hereby given that the City of Poway, has submitted an application to lease (with option to patent) five parcels of public land for equestrian riding and hiking trail system park.

The following described land has been examined and classified as suitable for lease and or patent under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 74) as amended (43 U.S.C. 869 et. seq.):

T. 13 S., R. 1 W., San Bernardino Meridian
Sec. 17, S½ SE¼;
Sec. 20, NE¼, NE¼, S½ NE¼, E½ SW¼ SE¼;
Sec. 27, N½ SW¼;
Sec.28, SE¼ SW¼, S½ SE¼, NE¼ SE¼;
Sec.33, NE¼, NE¼ NW¼, S½ NW¼;
Sec.34, S½ SE¼, NW¼ SE¼, SW¼ NE¼ SE¼, S½ SE¼ NE¼ SE¼;
T. 14 S., R. 1 W., San Bernardino Meridian
Sec. 1, W½ SW¼;
Sec. 2, Lot 4 (40.34A), S½ NE¼, SE¼ SW¼, SE¼;
Sec. 3, Lot 3 (41.02A), Lot 4 (40.64A);
Sec. 11, N½, N½ SW¼, SE¼ SW¼;
Sec. 12, W½ NW¼;
Total, 1.877 acres

The decision/notice is based on the following reasons:

1. The lands have been found to be valuable for public purposes and/or recreational uses.

2. The land is not of national significance and not essential to any Bureau of Land Management Program.

3. The proposed use is in conformance with the existing land use plan.

4. The proposed action will have no significant (including controversial) effects on the human and natural environment.

5. Leasing of the above described lands to the City of Poway will serve important public purposes. (i.e., Provide land for riding and hiking trails, open space and watershed protection, outdoor classroom for local education institutions.)

6. The subject lands are isolated and receive only custodial management.

7. The classification, lease and/or patenting of the land to the City of Poway, California is in conformance with the Secretary of the Interior's "Good Neighbor Program."

DATES: Interested parties may submit comments until 60 days after this notice is published. Send comments to the District Manager, Bureau of Land Management, 1695 Spruce Street, Rivereside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this Recreation and Public Purploses Application, including the environmental assessment, land report, terms, conditions, and special stipulations that will be included in the lease is available for review at the California Escondido Project Office at 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The classification and granting of the lease for a maximum period of 25 years with the option to purchase/patent the land will not be adverse to any known public or private interests.

Classification of these lands to the City of Poway, California, under the provisions of the above cited authority segregates them from all appropriations, including locations under the mining laws, except as to applications under the Mineral Leasing Laws.

This Recreation and Public Purposes Application is consistent with Bureau of Land Management policies and planning and has been discussed with state and local officials.

Petition for classification CA–13066 is approved as to the land described above.

Name of Petitioner: City of Poway, by its Mayor.

Type of Petition: Recreation and Public Purposes Act of June 14, 1926, as amended.

Dated: April 29, 1983.

Hugh Reicken

Acting Associate District Manager.

[FR Doc. 83-12739 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[Exchange CA 12957]

Public Lands in Humboldt County, California; Realty Action; Correction

In FR Doc. 82–19770, pages 31755 and 31756 of the Thursday, July 22, 1982 issue, the lands applied for are corrected to add Lot 2; Sec. 35, T. 11½ N., R. 3 E., Humboldt Meridian. Total acreage is changed to contain 917.22 acres, vice 866.61 acres.

The publication of this correction in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consumated before the end of that period.

Detailed information concerning the exchange, including the environmental analysis and the record of non-federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

All remaining sections of publication FR Doc. 82–19770 for Exchange CA 12957 are correct and remain effect.

John W. Lahr,

Area Manager, Eureka Resource Area, Ukiah District Office.

[FR Doc. 83-12738 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Migratory Bird Hunting and Conservation Stamp Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 1983 contest.

SUMMARY: The Service announces the 1983 Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest to select the stamp design for the 1984–85 hunting seasons. Regulations governing the contest are contained in 50 CFR Part 91.

DATES: This year's contest will be held on Tuesday, November 8th and Wednesday, November 9th, beginning at 9:00 a.m. each day. Entries may be received any time after July 1, but must be received or postmarked no later than midnight of October 1.

ADDRESSES: This year's contest will be held in the Department of the Interior Auditorium, 18th & C Streets, NW., Washington, D.C.

Requests for copies of the contest regulations and Reproduction Rights Agreement and entries should be sent to Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Anastasi, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; Telephone 202–343–5508.

SUPPLEMENTARY INFORMATION:

Background

Under the Migratory Bird Hunting and Conservation Act, 16 U.S.C. 718 requires migratory bird hunters that are 16 years of age or older to possess a Federal migratory bird hunting and conservation stamp. Under the authority contained in 5 U.S.C. 301 and 31 U.S.C. 483a, the U.S. Fish and Wildlife Service conducts an annual contest to select the design for the following years's hunting seasons. The contest is open to the public.

Ineligible species.

As provided by 50 CFR 91.14, the dominant feature of the design of each eligible entry may not be a species that

was selected for the Stamp during the preceeding five years. Accordingly, the following species are ineligible as the dominant feature for the 1983 contest:

Green-winged teal
Mallard
Ruddy duck
Canvasback
Pintail

Dated: May 3, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-12734 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Biscayne National Park, Flordia; Boundary Revision

Section 101 of the Act of June 28, 1980, (94 Stat. 599), established Biscayne National Park and further authorized the Secretary to make minor revisions in the boundary.

Notice is given that the boundary of Biscayne National Park has been revised, pursuant to the Act, to encompass lands as are depicted on boundary map number 169–90,004, dated May 1981, prepared by the Division of Cartography, Big Cypress Land Office, of the Southeast Region Office of the National Park Service. The revisions to the boundary are along the west and south boundary lines.

This map is on file and available for inspection in the administrative office of the Biscayne National Park, P.O. Box 1369, Homestead, Florida 33030, and in the Offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 16, 1982.

Neal G. Grise,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 83-12732 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-70-M

Boston National Historical Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Boston National Historical Park Advisory Commission. The matters to be discussed at this meeting include:

1. Report from Site Liaison Subcommittee
2. Report from Education Subcommittee
3. Commandant's House Preservation and Use
4. Report from Budgeting and Priorities Subcommittee
5. NPS Management Efficiency Programs
6. Water-Chelsea Connector Construction Impacts
7. Update on Hoosac Pier plans
8. Plans to improve handicapped access to Faneuil Hall
9. Freedom Trail signing, striping, and litter control
10. Plans for 1983 visitor season
11. Review and discussion of park administration

DATE: May 24, 1983, 11 a.m. to 3 p.m.

ADDRESS: Boston National Historical Park Visitor Center, 4th Floor Conference Room, 15 State Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Hugh D. Gurney, Superintendent, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109 (617–242–5644).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463. The Commission was established by Pub. L. 93–431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

Herbert S. Cables, Jr.,

Regional Director, North Atlantic Region.

[FR Doc. 83-12751 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-70-M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, June 18, 1983, at 1:00 p.m. at the District 16 Fire Company, North Branch, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Majorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Cumberland/North Branch Development Concept Plan
2. Old and New Business
3. Superintendent's Report
4. Park Land Protection Plan
5. Committee Reports
   Plans and Projects Committee
   Recreation Policies and Issues Committee
   Resource Protection Committee
6. Public Comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: May 5, 1983.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 83-12753 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Protect Our Wetlands and Duck Resources Task Force; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Protect Our Wetlands and Duck Resources (POWDR) task Force will be held on Friday, May 27, 1983, at 9:00 a.m. at Ormond Plantation, 10 Villere Drive, Destrehan, Louisiana.

The purpose of the Task Force is to identify and implement, where possible, innovative methods and measures to conserve wetlands, particularly for migratory bird habitat. This includes the identification of opportunities to encourage private landowners, businesses, and State and local governments to participate in the conservation of wetlands.

The purpose of the Task Force meeting is to discuss recent public and private initiatives in the wetlands conservation area. The tentative agenda

consists of: (1) A status report on the Protect Our Wetlands and Duck Resources Act of 1983 (introduced in the U.S. House of Representatives as H.R. 2268 on March 23, 1983, and in the U.S. Senate as S.978 on April 5, 1983); (2) a report on Task Force public information activities; (3) discussion of possible initiatives in the tax incentives area; and, (4) discussion of new initiatives.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further infromation about the meeting may contact Kathryn Yasueda, Staff Assistant, Office of the Secretary, Department of the Interior, Washington, D.C. 20240 (202/343–4203). minutes of the meeting will be available for public inspection from the address, above, approximately one month after the meeting.

Dated: May 9, 1983.

Emily S. DeRocco,

Assistant to the Secretary, Department of the Interior.

[FR Doc. 83–12747 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[Investigation & Suspension Docket No. M–29788]

Charge for Shipments Moving on Order-Notify Bills of Lading; National Railroad Freight Committee and Railroad Interterritorial Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: The previously established due date for comments of May 11, 1983 extended at 48 FR 17407, April 22, 1983, on the requirement that rules and charges unrelated to classification and not prescribed by the Commission be removed from the classification where the scope of the pertinent agreement is limited to classification making has been extended 40 days for Section 10706(a) Application No. 12 and Section 5(b) Application No. 5. The original notice in this proceeding was published at 47 FR 11572, March 17 1982.

DATE: Comments must be received by June 20, 1983.

ADDRESSES: Send comments (original and 15 copies) to: Section 10706(a) Application No. 12; Section 5(b) Application No. 5, Interstate Commerce Commission, Office of Proceedings, Room 5444, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: The Commission, in Investigation and Suspension Docket No. M–29788, *Charge For Shipments Moving on Order-Notify Bill of Lading,* —— I.C.C. —— (served March 22, 1983), ordered, among other matters, that all rail freight classifications either: (1) comply with the Commission's policy, as set forth concerning the National Motor Freight Classification; or (2) submit comments under their approved 5b [49 U.S.C. 10706(a)] agreements.

By petition filed April 20, 1983, the rail carrier members of the National Railroad Freight Committee Agreement and the Railroad Interterritorial Agreement have requested an extension of time to June 20, 1983, for the filing of their comments. Petitioners state that the extension is necessary to permit further review and evaluation of the Commission's decision in I&S M–29788.

Since the Commission's decision in I&S M–29788 may have important ramifications to petitioners and they were neither participants nor parties to I&S M–29788, their request for an extension will be granted. For all other persons affected by the Commission decision in I&S M–29788, the due date for comments remains May 11, 1983 [48 FR 17407 (April 22, 1983)].

It is ordered:

The petition is granted. The time for filing comments in Section 10706(a) Application No. 12 and Section 5(b) Application No. 5 is extended to June 20, 1983.

Decided: May 6, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12719 Filed 5–11–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs; Pittsburgh and Lake Erie Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice 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.[1] 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, Washingont, DC 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
921	The Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-19 (Waste paper)	1	5–5–83
922	Seaboard System Railroad, Inc., ICC-SBD-C-0062 (Chemicals)	2	5–5–83

[1] Review Board No. 1, Members Parker, Chandler and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing.

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

Authority: 49 U.S.C. 10505.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12509 Filed 5–11–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and

[1] Note: Tariff supplements advancing contract's effective date shall refer to these decisions for authority.

household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property , freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team 3 at (202)275-5223.

Volume No. OP3-194

Decided: May 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF-685, filed April 21, 1983. Applicant: ALEXANDER INTERNATIONAL, 225 Broadway, Suite 2100, San Diego, CA 92101. Representative: Kenneth D. Polin (same address as applicant) (619) 234-1966. As a *freight forwarder*, in connection with the transportation of *household goods, baggage and used automobiles*, between points in the U.S.

MC 10345 (Sub-107), filed April 19, 1983. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph St., Lansing, MI 48917. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Peugeot Motors of America, Inc., of Lyndhurst, NJ.

MC 89405 (Sub-2), filed April 21, 1983. Applicant: W. W. WARREN TRANSFER & STORAGE CO., a corporation, 3111 N. Santa Fe, Oklahoma City, OK 73118. Representative: Dean Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118. Transporting *such commodities*, used in the construction, maintenance, and operation of tele-communication systems, between points in AR, KS, MO, OK, and TX.

MC 117765 (Sub-328), filed April 19, 1983. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., Oklahoma City, OK 73106 (405) 528-3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CT, DE, FL, GA, ID, ME, MD, MA, MT, NV, NH, NJ, NY, NC, OR, PA, RI, SC, UT, VT, VA, WA, WV, and DC.

MC 139084 (Sub-14), filed April 11, 1983. Applicant: TOTRAN TRANSPORT LTD., Nisku Business Park, POB 4830, South Edmonton, Alberta, Canada T6E 5G7. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111 (801) 531-1300. Transporting *Mercer commodities* and *machinery*, between points in the U.S. (except AK and HI), on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in ME.

MC 142864 (Sub-36), filed April 15, 1983. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215-3339, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts(s) with Fleming Companies, Inc., of Oklahoma City, OK.

MC 148044 (Sub-5), filed April 15, 1983. Applicant: JANICE PATRICIA MARTIN, d.b.a. J. D. MARTIN TRUCKING CO., Rt. 4, Box 251-A, Rocky Mount, VA 24151. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629-2818.

Transporting *lumber and wood products* and *building materials*, between points in AL, GA, MS, NC, SC, and VA, on the one hand, and, on the other, those points in the United States in and east of WI, IA, MO, AR, and TX.

MC 149284 (Sub-8), filed April 18, 1983. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *such commodities* as are dealt in or used by retail and chain grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Drackett Products Company, of Cincinnati, OH.

MC 153615 (Sub-2), filed April 15, 1983. Applicant: SMITH TRANSFER COMPANY, INC., P.O. Box 531, Wilson, NC 27893. Representative: Kin D. Mann, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522-0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 160884 (Sub-2), filed April 18, 1983. Applicant: JACKET CARRIERS, INC., 83 Longview Ave., White Plains, NY 10605. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165015 (Sub-1), filed April 19, 1983. Applicant: CHARLES WILLIS & SONS TRUCKING COMPANY, 2523 Old Savannah Rd., Augusta, GA 30906. Representative: Michael B. Hagler, P.O. Box 1477(13), Augusta, GA 30913, (404) 724-0171. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with InCon, an Indian Head Company, of Columbia, SC.

MC 165965, filed April 15, 1983. Applicant: UNDERWOOD TRUCKING CO., INC., P.O. Box 649, Grantsville, WV 26147. Representative: John M. Friedman, 2930 Putnam Ave., POB 426, Hurricane, WV 25526, (304) 562-3460. Transporting *petroleum, natural gas, and their products*, between points in WV, on the one hand, and, on the other, points in OH and PA, under continuing contract(s) with W. P. Brown Enterprises, Inc., of Byesville, OH, and American Refining Group, Inc., of Indianola, PA.

MC 167434, filed April 15, 1983. Applicant: R. L. OWENS, INC., Old Homestead Hwy., Swanzey Center, NH 03431. Representative: Albert J. Cirone, Jr., 23 Bank St., Lebanon, NH 03766, (603) 448-1330. Transporting *classes A, B and C explosives, blasting materials, blasting supplies and related products* used in connection with explosives, between points in MA, ME, NH, VT, CT, RI and NY, under continuing contract(s) with Hercules Incorporated of Wilmington, DE. Condition: The authority granted here is limited in point of time to a period of five (5) years from the date of issuance.

MC 167475, filed April 18, 1983. Applicant: PUGH BROS. CONSTRUCTION, INC., P.O. Box 70, St. Maries, ID 83861. Representative: Ronald Pugh (same address as applicant), (208) 245-4170. Transporting *lumber and wood products*, between points in ID, on the one hand, and, on the other, points in MT, WA, ND, SD, MN, CO, UT, and WY, under continuing contract(s) with Regulus Stud Mills, Inc., of St. Maries, Id.

MC 167515, filed April 18, 1983. Applicant: D & S TRUCKING, 44 8th Ave., W., Kalispell, MT 59901. Representative: Lee A. Diesen (same address as applicant), (406) 755-5810. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc. of Medford, OR.

MC 167535, filed April 18, 1983. Applicant: A.T.I. ENTERPRISES, LTD., d.b.a. ASCHE TRANSFER, P.O. Box 200, Shannon, IL 61078. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the *Report in Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in IL, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, LA, MI, MS, NC, OH, SC, TN, VA and WV.

Please direct status inquiries about the following to Team 4 at (202) 275-7669.

Volume No. OP4-269

Decided: May 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 51146 (Sub-869), filed April 29, 1983. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant), (414) 498-7623. Transporting *such commodities* as are dealt in or used by department and home improvement stores, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors and retailers of the above described commodities.

MC 145486 (Sub-8), filed April 27, 1983. Applicant: BERYL WILLITS, d.b.a. WILLIES GRAIN, 1145 33rd Ave., Greeley, CO 80631. Representative: Beryl Willits (same address as applicant), (303) 352-1243. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 146336 (Sub-34), filed April 29, 1983. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609-109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with I-T-E Electrical Products, a div. of Siemens-Allis, Inc., of Columbus and Decatur, GA.

MC 147087 (Sub-8), filed April 26, 1983. Applicant: W. L. GOOD TRUCKING, INC., Mingo, IA 50168. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *liquid fertilizer*, between points in Polk and Story Counties, IA, on the one hand, and, on the other, points in KS, NE, and OK.

MC 151446 (Sub-3), filed April 29, 1983. Applicant: CHARLES R. HEYL d.b.a. C.R.H. DELIVERY, 9382 Tilles, St. Louis, MO 63144. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421-0845. Transporting *pulp, paper and related products and printed matter*, between St. Louis, MO, on the one hand, and, on the other, points in IN, IA, and KY.

MC 154907 (Sub-8), filed April 27, 1983. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459-6121. Transportating *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Super Value Stores, Inc., of Minneapolis, MN, Viking Food Stores, Inc., of Muskegon, MI, Sunshine Biscuits, Inc., of East Grand Rapids, MI, Hi-Life Packing Company, of Hamilton, MI, Oceana Canning Company, of Shelby, MI, and Asta Traffic Services, of Eden, NY, and Best Brands, of St. Paul, MN.

MC 167666, filed April 27, 1983. Applicant: CONE MILLS CORPORATION, 1201 Maple St., Greensboro, NC 27405. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1124. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Intermodal Consolidating Services, Inc., of Bridgewater, NJ, Co-Am Transport Services, Inc., of Charlotte, NC, and Charles McAlpin Brokerage, Inc., of Decatur, AL and (2) *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chem Mark, Inc. of Bound Brook, NJ, and Dexter Chemical Corporation of Bronx, NY.

Volume No. OP4–274

Decided: May 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 146976 (Sub-9), filed April 4, 1983. Applicant: FOREWAY TRANSPORTATION, INC., 1413 Randall, P.O. Box 301, Coopersville, MI 49404. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI, (616) 399–3400. Transporting (1) *aluminum articles*, and (2) *food and related products*, between points in AL, CT, DE, GA, IA, IL, IN, KY, ME, MA, MD, MN, MI, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, WI, FL, MS, AR, LA, TX, OK, KS, NE, and DC.

MC 163457, filed April 28, 1983. Applicant: JOWIN EXPRESS, INC., 1498 Highway 13 N, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting (1) *brick and tile*, between Plant City, FL, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, ID, IL, IN, KS, KY, LA, MI, MS, MO, MT, NV, NM, NC, OH, OK, OR, SC, TN, TX, UT, VA, WA, WV, and WY, (2) *post poles and pilings*, between points in Forrest County, MS, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KY, KS, LA, MI, MO, NE, OH, OK, TN, and WI, and (3) *asphalt roofing*, between points in Lauderdale County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MO, NC, TN, TX and SC.

Volume No. OP4–275

Decided: May 5, 1983.

By the Commission, Review Borad No. 2, Members Carleton, Williams, and Ewing.

MC 167606, filed April 25, 1983. Applicant: COLLINS FOODSERVICE, 145 Willow Ave., City of Industry, CA 91746. Representative: Timothy J. Brandon (same address as applicant) (213) 961–9851. Transportaing *foodstuffs, groceries and grocery house supplies, paper and paper articles, and materials and supplies used in the manufacture, distribution and sale of the above-named commodities*, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12720 Filed 5-11-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-364N)]

Rail Carriers; Conrail Abandonment in Jeannette, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission has exempted Elliott Turbomachinery Co., Inc., which will acquire and operate 0.7 mile of railroad in Jeannette, PA, from 49 U.S.C. Subtitle IV.

DATES: Exemption effective on May 12, 1983. Petitions to reopen must be filed by June 1, 1983.

ADDRESSES: Send pleadings referring to Docket No. AB–167 (Sub-No. 364N) to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative, Charles F. Hildebrand, Elliott Turbomachinery Co., Inc., Jeannette, PA 15644.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4350 (DC Metropolitan area) or toll free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12716 Filed 5-11-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Eli Lilly Industries, Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 13, 1982, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00780, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene (9273).

Any other such applicant and any person who is presently registered with the DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than June 13, 1983.

Dated: May 4, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-12746 Filed 5-11-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-2]

Hawkins Rexall Drug, Inc., Madison, North Carolina; Hearing

Notice is here by given that of December 6, 1982, The Drug Enforcement Administration, Department of Justice, issued to Hawkins Rexall Drug, Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AH3165962, issued under 21 U.S.C. 823.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, May 24, 1983, in Courtroom No. 2, U.S. Bankruptcy Court, Meyers Law Center, 101 W. Sycamore Street, Greensboro, North Carolina.

Dated: May 4, 1983.

Francis M. Mullen, Jr.

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-12744 Filed 5-11-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Smith Kline and French Laboratories; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 2, 1983, Smith Kline and French Laboratories, Division of Smithkline Beckman Corporation, 1530 Spring Garden Street, Philadelphia, Pennsylvania 19101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

	Schedule
Drug:	
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than June 13, 1983.

Dated: May 4, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-12745 Filed 5-11-83; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Decay Heat Removal Systems; Cancellation

The ACRS Subcommittee on Decay Heat Removal Systems scheduled for May 18, 1983 in Room 1046, 1717 H Street, NW, Washington, DC has been *cancelled* indefinitely. Notice published Monday, May 2, 1983 (48 FR 19801).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: May 6, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-12784 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Electrical Systems; Meeting

The ACRS Subcommittee on Electrical Systems will hold a meeting on May 26, 1983 in Room 1167, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the generic implications of the scram breaker failures at the Salem Nuclear Power Plant.

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:

Thursday, May 26, 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. EDT.

Dated: May 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-12785 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-348]

Alabama Power Company; Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Alabama Power Company (the licensee). The relief relates to the inservice testing program for the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The ASME Code requirements are incorporated by reference to the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of May 2, 1983.

The relief permits the licensee to test certain designated pumps and valves in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see: (1) The application for relief

dated May 1, 1979, as revised November 15, 1979, April 21, 1980, July 16, 1981, and October 25, 1982, (2) The Commission's letter dated May 2, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-12780 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 78 and 44 to Facility Operating License Nos. DPR-51 and NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit Nos. 1 and 2 respectively, located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to require an audit of Emergency Preparedness Programs and the Safeguards Contingency Plans (Security Plan) at a frequency of at least once per twelve (12) months.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

For further details with respect to this action, see: (1) The application for amendments dated March 15, 1983, (2) Amendment Nos. 78 and 44 to Facility Operating License Nos. DPR-51 and NPF-6, and (3) the Commission's letter dated April 29, 1983. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-12787 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment was effective as of the date of issuance.

The amendment clarifies and modifies the emergency diesel generator load block application timing criteria.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The applications for amendment dated August 12, 1980 and February 3, 1983, (2) Amendment No. 45 to Facility Operating License No. NPF-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Akansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12788 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois.

This amendment consists of a deletion of License Condition 2.C.(26) and changes the Technical Specifications to incorporate the approved alternative Rad/Chem Technician qualification. The amendment is effective as of the date of issuance.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment and in the safety evaluation in support of the Amendment. Prior public notice of the

license amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 11, 1983; (2) Amendment No. 14 to License No. NPF-11, and (3) the related safety evaluation in support of the Amendment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of May 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-12790 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The changes to the Technical Specifications were made to clarify and modify surveillance requirements and limiting conditions for operation for degraded grid voltage protection equipment and procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 10, 1982, (2) Amendment No. 58 to License No. DPR-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12791 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

GPU Nuclear Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) in issued Amendment No. 21 to Facility Operating License No. DPR-73, issued to GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the licensee).

Operating License No. DPR-73 formerly authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) located in Dauphin County, Pennsylvania, but that authorization was limited, by an Order for Modification of License dated July 20, 1979 to maintaining the facility in its present safe shutdown condition; 44 FR 45271 (August 1, 1979). This amendment effects changes to License No. DPR-73 with respect to the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications. Specifically, this amendment consists of changes to Appendix B of Operating License No. DPR-73 pertaining to the following: (1) Eliminate activities that are duplicated in the licensee's National Pollutant Discharge Elimination System (NPDES); (2) eliminate those programs that have been satisfactorily completed (Section 4 special studies); (3) eliminate those programs that are not related to monitoring the integrity of the river system in relation to the cleanup; (4) modify the General Ecological Survey (Section 3.1.2.a.1); (5) eliminate the erosion control inspection section; and (6) eliminate the discussion on herbicide use.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

We have determined that the amendment does not authorize a change in effluent types or total amounts or an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the amendment involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 25, 1982 and amended by letter dated January 24, 1983, (2) Amendment No. 21 and License No. DPR-73 consisting of changes in the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126.

A copy of items (2) and (3) may be obtained upon request addressed to the

U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 6th day of May 1983.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Acting Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12792 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Modification of January 13, 1981 and September 15, 1982 Orders

I

The Nebraska Public Power District (The licensee) is the holder of Facility Operating License No. DPR-46 which authorizes the licensee to operate the Cooper Nuclear Station at power levels not in excess of 2381 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

On January 13, 1981 the Commission issued an Order modifying the License requiring (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661: and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9286) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than September 30, 1982, or, if the plant is shufdown on that date, before the resumption of power thereafter. On September 15, 1982 the Commission issued an Order modifying the completion date specified in Section V of the January 13, 1981 Order. The Order, published in the **Federal Register** on September 27, 1982 (47 FR 42478) changed the completion date to prior to the start of Cycle 9 (at the completion of the licensees 1983 refueling outage).

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria significant progress has been made and it was the intent of the licensee to meet the extension date specified in the September 15, 1982 Order. However, as identified in an April 29, 1983 letter, unacceptable welds on Mark I containment modifications performed in 1982 have been found which are under evaluation and may require corrective measures.

This potential rework of an existing modification would be the only item identified in the Mark I Long Term Program not completed. All of the major Modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping will have been completed. All of the torus attached piping modifications and minor modifications will have also been completed.

The Commission believes that since all the modifications will have been completed except for the rework of an existing modification most of the intended margins of safety of the containment systems will have been achieved. In consideration of the range of modification completion dates presented in SECY-81-678 that was approved by the Commission, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has therefore determined to modify the January 13, 1981 Order, as modified by the Order of September 15, 1982, to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect that exemption to General Design Criteria 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

The Commission has determined that good cause exists for the extension of the exemption, that such extension is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption," as modified by the Order of September 15, 1982, is hereby changed to read as follows: "Not later that 90 days after the start of Cycle 9." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 30 days of the date of publication of this Order in the **Federal Register.** A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

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, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant Extension of Exemption," should be changed to "Not later than 90 days after the Start of Cycle 9."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Date at Bethesda, Maryland this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12793 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Northeast Nuclear Energy Company, et al.; Issuance of Amendments To Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 91 to Provisional Operating License No. DPR-21, and Amendment No. 86 to Facility Operating License No. DPR-65, to The Connecticut Light and Power Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees), which amended the licenses for operation of Millstone Nuclear

Power Station, Units 1 and 2 (the facilities) located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments amend the Millstone 1 and 2 licenses to reflect the merger of The Connecticut Light and Power Company (CL&P) and The Hartford Electric Light Company. Accordingly, the results of this action indicate CL&P and Western Massachusetts Electric Company as having authority to possess Millstone Station, Units 1 and 2, and the Northeast Nuclear Energy Company remaining as the responsible entity for operation of the facilities. With respect to Unit 1 only, this action also involves: (1) A change to Section 5.1 of the Technical Specifications, and (2) reissuance of the operating license in its entirety for clarity and format purposes only.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to these actions, see: (1) The application for amendments dated December 8, 1982, (2) Amendment No. 91 to License No. DPR-21 and Amendment No. 86 to License No. DPR-65, and (3) the Commission's related letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-12794 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-76 issued to the Pacific Gas and Electric Company (the licensee), for Diablo Canyon Nuclear Power Plant, Unit No. 1 (the facility) located in San Luis Obispo County, California. The amendment is effective as of the date of issuance.

The amendment extends the period relief from specific technical specifications for an additional 45 days (from May 6, 1983 to June 20, 1983) to allow for the movement of loads in excess of 2,500 pounds in order to make certain modifications in the Fuel Handling Building.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 21, 1982, and supplemental letter dated April 29, 1983 (2) Amendment No. 5 to Facility Operating License No. DPR-76, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-12795 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commissioin (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications on Fxy to remove the cycle dependent values of Fxy as a function of core height and provide these Fxy values by means of a Peaking Factor Limit Report.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 31, 1983, (2) Amendment No. 19 to License No. DPR-75, and (3) the Commission's related

Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-12796 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co.; Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-70 and Amendment No. 20 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments change the partial power multiplier from 0.2 to 0.3

$$N$$

for $F\Delta H$.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated October 5, 1982, (2) Amendment Nos. 52 and 20 to License Nos. DPR-70 and DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 83-12797 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co.; Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-70 and Amendment No. 21 to Facility Operating License No. 75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments raise the trip set points and allowable value of the steam generator water level low low reactor trip.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notices of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) the application for amendments dated May 4, 1983, (2) Amendment Nos. 53 and 21 to License Nos. DPR-70 and DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-12798 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-77 and Amendment No. 17 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the Technical Specifications related to the Upper Head Injection (UHI) accumulator water level setpoint and tolerances. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the

Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated March 28, 1983, (2) Amendment No. 28 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page change; (3) Amendment No. 17 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page change; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 28 and Amendment No. 17 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-12799 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendment To Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-77 and Amendment No. 19 to Facility Operating License No. DPR-79 issued to the Tennessee Valley Authority (the licensee), which revises the licenses for operation of the Sequoyah Nuclear Plant, Units 1 and 2, (the facility) located in Hamilton County, Tennessee. The amendments are effective 90 days after the date of issuance and are to be implemented in accordance with the provisions of 10 CFR 73.40(b) and 10 CFR 73.55(b)(4).

The amendments revise license conditions to include the Commission-approved Guard Training and Qualification Plan and the Safeguards Contingency Plan as part of the licenses.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filings dated June 23, 1982, consist of Safeguards Information required to be protected from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see: (1) Amendment No. 30 to Facility Operating License No. DPR-77; (2) Amendment No. 19 to Facility Operating License No. DPR-79; (3) the related Safety Evaluation Report; and (4) the Commission's related letter to the licensee dated MAY 5, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of the above items may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4 Division of Licensing.

[FR Doc. 83-12800 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Application for Operating License

May 6, 1983.

From June 13-17, 1983 the Atomic Safety and Licensing Board (Board) will continue its evidentiary hearing in this case at the Metro Center Hotel, 600 Commerce Street, Fort Worth, Texas 76102. This phase of the hearing is concerned with a staff study (the Construction Appraisal Team or "CAT" study) of quality assurance at Comanche Peak.

Ordinary hours of hearing will be from 9 a.m. to 5 p.m., subject to periodic recesses and to extension of hours in order to complete the hearing during the scheduled time period. Members of the public are invited to attend. Because the Board's time is expected to be dedicated to the receipt of evidence, there are no plans for permitting limited appearance statements during this sessions of hearings.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 83-12801 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Unit 2); Revised 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. 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 letters, the licensee made schedular commitments for the completion of each of the remaining items. Based on these commitments, the NRC issued the "Order Confirming Licensee Commitments on Post-TMI Related Issues" dated March 14, 1983 for Brunswick Steam Electric Plant, Unit 2.

By letter dated April 1, 1983 Carolina Power and Light Company requested relief from the commitment dates contained in said Order for three items for Brunswick Unit 2. The specific items are II.B.3, Post Accident Sampling, capability; II.F.1.1, Accident Monitoring, noble gas effluent monitors; and II.F.1.5, Accident Monitoring, continuous indication of containment water level. Carolina Power & Light Company requested that these completion dates be changed from June 1, 1983 to September 30, 1983.

The need for this schedular change resulted from the delayed completion of the outage work on Brunswick Unit 1, which required the diversion of resources from Unit 2 that were originally committed to completion of these items on Unit 2. With the completion dates extended to September 30, 1983 Carolina Power and Light Company plans to complete those portions of the installation requiring an outage during the ten-day outage scheduled for Unit 2 on April 9, 1983. At the end of that outage the installation will have progressed to the following extent: Post Accident Sampling, 95% installed; Noble Gas Effluent Monitors, 60% installed and Containment Water Level Instrumentation, 80% installed. The balance of the installation and testing would be completed by September 30, 1983. We have reviewed the proposed schedule for installation of these modifications, the potential need for the subject instrumentation during the period from June 1, 1983 to September 30, 1983 and the augmented interim instrumentation and procedures that are presently in place for monitoring the pertinent plant conditions in the event of an accident. We have concluded that the licensee has made reasonable progress toward installation of the subject instrumentation and that the interim measures that have been established are adequate to permit continued operation of Brunswick Unit 2 until September 30, 1983 when the subject instrumentation shall be fully operational.

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.

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 that the licensee shall: Implement and maintain Post-TMI related items II.B.3, II.F.1.1 and II.F.1.5 described in the licensee's submittals noted in Section III herein no later than September 30, 1983.

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.

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 expiration of the time within which a hearing may be requested.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12719 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Implementation of Permanent Rates for Regular Bulk Third-Class Mail

AGENCY: Postal Service.

ACTION: Notice of Implementation of Permanent Rates For Regular Bulk Third-Class Mail.

SUMMARY: The Governors of the Postal Service have approved a recommendation from the Postal Rate Commission to implement permanent rates for regular bulk third-class mail, and the Board of Governors has directed that the changes are to be implemented at 12:01 a.m., May 22, 1983. The rates are contained in the Appendix to this notice.

EFFECTIVE DATE: 12:01 a.m., May 22, 1983.

FOR FURTHER INFORMATION CONTACT: Frances G. Beck, Associate General Counsel, Office of Rates and Classification Law (202) 245–4600.

SUPPLEMENTARY INFORMATION: On July 9, 1982, the Court of Appeals for the Second Circuit issued an opinion in *Time, Inc.*, v. *United States Postal Service*, 685 F. 2d 760 (2d Cir. 1982) holding, among other things, that the current rates for bulk third-class mail could be maintained only if reinstituted by the Board of Governors as temporary

rates pursuant to 39 U.S.C. section 3641. In accordance with the Court's decision, the Board or Governors of the Postal Service met on August 3, 1982. By resolution, the Board of Governors specified that the rates in effect would be considered temporary rates effective August 20, 1982, under the provisions of 39 U.S.C. section 3641.

Subsequently, on February 16, 1983, the Governors of the United States Postal Service rejected a recommended decision by the Postal Rate Commission on permanent bulk third-class rates. Following the rejection, the Postal Rate Commission reconsidered its recommendation. The Recommended Decision upon Reconsideration, issued on April 18, 1983, was considered by the Governors of the United States Postal Service at their meeting on May 3, 1983. The Governors approved the rates recommended for regular bulk third-class mail and the Board of Governors directed that the changes be implemented at 12:01 a.m., May 22, 1983. Pending their further study of the matter, the Governors took no action on the recommended third-class bulk nonprofit rates. There will be no change in the rates paid by nonprofit mailers at this time. The Governors said: "The temporary full rates not in effect for nonprofit third-class bulk mail shall, therefore, remain in effect until they expire by action of law on May 22, at which time the full rates will revert to those in effect before March 22, 1981. In accordance with current law, however, the effective rates paid by the mailers shall be maintained at their current levels until October 1, 1983."

The Governors' decisions, the record of the Commission's hearings, and the Commission's recommended decisions may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decisions and the Commission's recommended decisions are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

(39 U.S.C. 3625)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

APPENDIX.—THIRD-CLASS MAIL, REGULAR BULK

Bulk rate structure [1]	Full rates (Cents)
Per-pound, required presortation	45.
Per-pound, presorted to 5-digits	45 less 1.7 per piece.
Per-pound, presorted to carrier route	45 less 3.6 per piece.
Minimum-per-piece, required presortation	11.0.
Minimum-per-piece, presorted to 5-digits	9.3.
Minimum-per-piece, presorted to carrier route.	7.4.

[1] A fee of $40.00 must be paid once each calendar year for each bulk mailing permit.

[FR Doc. 83-12707 Filed 5-11-83; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Procurement Requests
(2) Form(s) submitted: Request for Proposal
(3) Type of request: Existing collection in use without an OMB control number
(4) Frequency of use: On occasion
(5) Respondents: Business or other for-profit, Non-profit institutions, Small businesses or organizations
(6) Annual responses: 665
(7) Annual reporting hours: 4247
(8) Collection description: The collection obtains the information needed from bidders to award contracts for services or equipment.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83-12737 Filed 5-11-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 7d-(b)(8) (i), (iii) and (viii) under the Investment Company Act of 1940 which concerns the condition and arrangements pursuant to which Canadian management investment companies may register under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*).

The potential respondents are all investment companies registered under the Investment Company Act of 1940 and investment advisers of such companies.

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 7d-1(b)(8) (i), (iii) and (viii) [17 CFR 270.7d-1(b)(8) (i), (iii) and (viii)]

SEC File No. 270-176

Submit comments to OMB Desk Officer: Robert Veeder 202-395-4814.

George A. Fitzsimmons,

Secretary.

May 5, 1983.

[FR Doc. 83-12805 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a voluntary survey on the utility of the 1982 concise SEC Annual Report to Congress.

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

New

Annual Report to Congress, Readership Survey

No. 270-276

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and

Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

May 6, 1983.

[FR Doc. 83-12806 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 31a-1 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by registered investment companies.

The potential respondents are all investment companies registered under the Investment Company Act of 1940, certain majority-owned subsidiaries thereof, and banks and transfer agents that maintain and preserve records on behalf of registered investment companies.

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C., 20549.

Extension

Rule 31a-1 [17 CFR 270.31a-1]

SEC File No. 270-173

Submit comments to OMB Desk Officer: Robert Veeder 202-395-4814.

George A. Fitzsimmons,

Secretary.

May 5, 1983.

[FR Doc. 83-12807 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13217; (811-722)]

Scudder Special Fund, Inc.; 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

May 5, 1983.

Notice is hereby given that Scudder Special Fund, Inc. ("Applicant") (345 Park Avenue, New York, New York 10154), registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on November 24, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below.

Applicant states that it registered under the Act on June 1, 1956, by filing a registration statement on Form N-8B-1 pursuant to Section 8(b) of the Act. Applicant further states that it filed a registration statement on Form S-5 pursuant to the Securities Act of 1933 on May 11, 1956. It was incorporated under the laws of Delaware.

Applicant represents that, pursuant to a plan of merger approved by its Board of Directors on May 17, 1982, and by a majority of its shareholders on September 17, 1982, it transferred all of its securities and other assets, on September 30, 1982, to Scudder Capital Growth Fund, Inc. ("Capital Growth"), a registered investment company. Applicant further represents that it has filed a Certificate of Merger pursuant to the General Corporation Law of the State of Delaware and recorded a copy of the certificate in the Office of the Records of New Castle County, Delaware. Applicant states that, pursuant to the Merger, its shareholders became shareholders of Capital Growth, Applicant's corporate existence ceased, and Capital Growth commenced offering its shares to the public on a continuous basis.

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. Rule 8f-1 under the Act prescribes Form N-8F as the form for application for an order, pursuant to Section 8(f) of the Act, where, as here pertinent, a registered investment company has merged or consolidated with another registered investment company.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 30, 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 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. 83-12808 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19728; File No. SR-OCC-83-7]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corporation Relating to a Proposed Revision of the Method Used To Calculate the Amount of Contributions by Clearing Members to OCC's Clearing Fund

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1), notice is hereby given that on April 15, 1983, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The Options Clearing Corporation ("OCC") proposes to amend its rules as set forth below. *Italics* indicate material proposed to be added to OCC's existing rules and brackets indicate material to be deleted from existing rules.

RULES

Chapter X.—Clearing Fund Contributions, Amount of Contributions

Rule 1001. (a) The contribution to the Stock Clearing Fund of each Stock Clearing Member (except recently admitted Clearing Members whose contributions are fixed pursuant to Article VIII of the By-Laws) for each calendar month shall be the greater of (x) $10,000, or (y) such Clearing Member's proportionate share of an amount equal to [7%] *5%*, or such greater percentage as the Board of Directors shall from time to time prescribe by resolution, of the average daily [value] *aggregate margin requirement in respect* of the stock option contracts outstanding

during the [three] preceding calendar month[s].

(b) The contribution to the [Debt] *Non-Equity* Securities Clearing Fund of each [Debt] *Non-Equity* Securities Clearing Member (except recently admitted Clearing Members whose contributions are fixed pursuant to Article VIII of the By-Laws) for each calendar month shall be the greater of (x) $100,000, or such greater amount as the Board of Directors may from time to time prescribe by resolution applicable to all [Debt] *Non-Equity* Securities Clearing Members, or (y) such Clearing Member's proportionate share of an amount equal to [7%] *5%*, or such greater percentage as the Board of Directors shall from time to time prescribe by resolution, of the average daily [value] *aggregate margin requirement in respect* of the [debt] *non-equity* securities option contracts outstanding during the [three] preceding calendar month[s].

(c) For the purposes of this Rule, the average daily [value] *aggregate margin requirement in respect* of stock option contracts or [debt] *non-equity* securities option contracts, as the case may be, outstanding during the [three] preceding calendar month[s] shall be determined by (i) determining, for each business day during the [three] preceding calendar month[s], the sum of [the] *all* daily *margin required to be deposited on such business day by all Clearing Members pursuant to Rules 601, 602, and 609* [options marking prices (determined in accordance with Chapter VI of the Rules) of all short positions in such option contracts maintained with the Corporation at the close of such business day]; (ii) calculating the sum of the amounts determined in step (i), and (iii) dividing the sum arrived at in step (ii) by the aggregate number of business days in such [three] preceding calendar month[s]. A Clearing Member's proportionate share shall be a fraction, the numerator of which shall be the daily average number of stock option or [debt] *non-equity* securities option contracts, as the case may be, held by such Clearing Member in open long and short positions with the Corporation during the [three] preceding calendar month[s], and the denominator of which shall be daily average number of stock option or [debt] *non-equity* securities option contracts, as the case may be, held by all Clearing Members in open long and short positions with the Corporation during such [three] preceding calendar month[s].

Interpretations and Policies

1. The Board of Directors of the Corporation has prescribed that, at the present time, the percentage amount referred to in paragraphs (a) and (b) of this Rule 1001 shall be 7% of the average daily aggregate margin requirement with respect to stock and non-equity securities options, respectively.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed revision of Rule 1001 would base Clearing Members' contributions to OCC's Clearing Funds on aggregate margin requirements rather than open interest value. OCC believes that this change will relate the size of the Clearing Funds more closely to OCC's actual risks. It is contemplated that the change will reduce the size of Clearing Fund contributions and therefore reduce the burden on OCC's Clearing Members. Contributions would be based upon 30-day rather than 90-day averages of daily aggregate margin requirements in order that the size of the Clearing Funds will increase and decrease more rapidly in response to changes in aggregate margin requirements.

The proposed rule change is consistent with Section 17A(b)(3) (A), (D), and (F) of the Act because it provides for the safeguarding of securities and funds in OCC's custody, provides for the equitable allocation of Clearing Fund contributions, and protects investors and the public interests by providing for Clearing Funds that are sufficient to cover any anticipated loss by OCC through the default of a Clearing Member and are more reasonably related to OCC's actual risks.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 4, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12809 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19723; File No. SR-PSE-83-09]

Self-Regulatory Organization; Proposed Rule Change by the Pacific Stock Exchange Inc., Relating to the Increase of Option Positions and Exercise Limits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 29, 1983, the Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or "Exchange") proposes to amend Rule VI, Sections 5 and 6, of the Rules of its Board of Governors. The proposed amendments relate specifically to Rule VI, Section 5, Commentary .05 and .06, and Rule VI, Section 6, Commentary .01 (Brackets indicate deleted language; italics indicates added language.)

Rule VI, Section 5

Commentary .05

The current position limits established pursuant to Section 5 follow: aggregate positions shall be [2,000] *2,500 or 4,000* contracts on the same side of the market in the same underlying stock [.] *, which limit is determined in accordance with Commentary .06.* These position limits shall include [2,000] *2,500 or 4,000* long call options, or [2,000] *2,500 or 4,000* short put options, or any combination thereof not to exceed an aggregate of [2,000] *2,500 or 4,000* contracts, and [2,000] *2,500 or 4,000* short call options, or [2,000] *2,500 or 4,000* long put options, or any combination thereof not to exceed an aggregate of [2,000] *2,500 or 4,000* contracts. *Whether a limit is 2,500 or 4,000 option contracts shall be determined in the manner described in Commentary .06 below.*

Rule VI, Section 5

Commentary .06

The position limit shall be 4,000 contracts for options: (i) on an underlying stock which had trading volume of at least 20,000,000 shares during the most recent six-month trading period; or (ii) on an underlying stock which had trading volume of at least 15,000,000 shares during the most recent six-month trading period and has at least 60,000,000 shares currently outstanding. The position limit shall be 2,500 contracts for all other options.

The Exchange will review the volume and outstanding share information of all underlying stocks on which options are traded on the Exchange every six months to determine which limit shall apply. The 4,000 contract limit will be effective on the date set by the Exchange, while any change from a 4,000 contract limit to a 2,500 contract limit will take effect after the last expiration then trading, unless the requirement for a 4,000 contract limit is met at the time of the intervening six-month review.

Rule VI, Section 6

Commentary .01

The exercise limits established pursuant to this Section shall be [2,000] *2,500 or 4,000* option contracts of any particular class of options and it shall be the responsibility of each member organization accepting orders for the purchase (in opening transactions) of option contracts of a class of options dealt in on the Exchange to inform its customers of the applicable exercise limits and not to accept any exercise of an option contract from any customer in any instance in which such member organization has reason to believe that such customer, acting alone or in concert with others, has exceeded or is attempting to exceed such exercise limits. *Whether an exercise limit is 2,500 or 4,000 option contracts shall be determined in the manner described in Rule VI, Section 5, Commentary .06.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase position and exercise limits for stock options in order to add to market depth and liquidity.

Position and exercise limit rules were originally adopted by option exchanges in order to minimize the manipulative potential which could result from the accumulation of large option positions. In 1978, the Special Study of the Options Market ("Study") recognized a number of significant problems which resulted from the position limit rule restrictions, including the inability of large portfolio managers to utilize options as a vehicle to properly balance a portfolio's risk and potential reward. The Study recommended that existing Exchange Rules, which limited the size of option positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of re-examination of position limits, as suggested in that Study, the Exchange proposed rule changes which were adopted in October 1980 to raise position and exercise limits from 1,000 to 2,000 contracts. In view of the increased use of the options markets and the experience gained during the two years since the position limits were increased in 1980, the Exchange believes that it is appropriate at this time to again increase position and exercise limits.

In its 1980 release approving position and exercise limit increases, the Commission made the following statements (Release No. 34-17237) that the Exchange believes also apply to the current proposal to increase limits:

> * * * There is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibly propose and effectively evaluate possible further modificaitons * * *

It should be noted that position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail larger financial risks, position limits are cumbersome and ineffective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose; namely, suitability, margin, and net capital rules.

The change from 2,000 to 2,500 option contracts is minimal, especially in view of the Exchange's experience to date

with the 2,000-contract limit. The change from 2,000 to 4,000 option contracts involves standards that are a protection against possible manipulation. These standards insure that only option contracts having an underlying stock that has either very high trading volume or high trading volume and a high number of shares outstanding will receive the higher limit. The standards mean that the options and stocks involved are significantly less susceptible to manipulation. To be eligible for the 4,000-contract limit, either the most recent six-month trading volume of the underlying stock must have totaled at least 20,000,000 shares; or the most recent six-month trading volume of the underlying stock must have totaled at least 15,000,000 shares and the underlying stock must have at least 60,000,000 shares currently outstanding.

Every six months, the Exchange will review the status of underlying stocks for options traded on the Exchange to determine which limit should apply. Two new lists shall be published and distributed to all members and member firms. The 4,000 limit will be effective on the date set by the Exchange, which date will allow time for appropriate notice to be given. Any change from a 4,000 to a 2,500 limit will take effect after the last expiration then trading, unless the requirement for a 4,000 limit is met at the time of the intervening six-month review.

The basis for this proposed rule change is Section 6(b)(5) of the 1934 Act, in that the proposed change would increase market depth and liquidity, which is in the public interest, while continuing to protect investors from manipulative activity.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12810 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2080; Amdt. #1]

Mississippi; Declaration of Disaster Loan Area

Declaration #2080 (See 48 FR 18969) is amended in accordance with FEMA's declaration of April 16, 1983, to include Copiah, Pearl River, Simpson, and Covington Counties and the adjacent Counties of Claiborne and Pike in the State of Mississippi. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on June 16, 1983, and for economic injury until the close of business on January 16, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 4, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-12811 Filed 5-11-83; 8:45 am]

BILLING CODE 8025-01-M

Paperwork Reduction Policies Affecting Small Business; Hearing and Request for Comments

The Chief Counsel for Advocacy will conduct six public hearings on small business paperwork burdens. The goal of the hearings is to assess the impact of the Paperwork Reduction Act of 1980 (PRA) on the small business community and to explore ways to provide greater relief from paperwork burdens.

Written comments or personal appearances are requested. Statements should respond to issues listed below but need not be limited by the list. One of the most difficult problems in assessing the effectiveness of paperwork control is the lack of specific information from small businesses. This notice and the public hearings seek to develop specific information.

Written comments by persons who will not be testifying at a hearing must be received by July 15, 1983. Requests to present an oral statement must be made two weeks in advance of the particular hearing, and witnesses are urged to make two copies of their testimony available to the Chief Counsel at the hearing.

Interested parties should submit two copies of their comments, suggestions, or other information about Federal paperwork and paperwork reduction policies to Mr. Frank S. Swain, Chief Counsel for Advocacy, U.S. Small Business Administration, Room 1012, 1441 "L" Street, NW., Washington, D.C. 20416. Attention: Paperwork Hearings.

To schedule testimony at one of the hearings, contact Dr. Philip Nicoll, Senior Advocate for Paperwork Policy, at the Office of Advocacy, U.S. Small Business Administration, Room 1012, 1441 "L" Street, NW., Washington, D.C. 20416, phone (202) 634-6180.

The dates and cities scheduled are:

Monday, June 6, 1983, Tampa, Florida
Wednesday, June 15, 1983, Dallas, Texas
Wednesday, June 22, 1983, Indianapolis, Indiana
Thursday, June 30, 1983, Boston, Massachusetts
Wednesday, July 13, 1983, San Francisco, California
Friday, July 15, 1983, Seattle, Washington

For exact times and places, call (202) 634-6180.

1. Reason for These Hearings

The Paperwork Reduction Act (PRA) was passed by Congress in 1980 to systematize and reduce Federal information collection and recordkeeping requirements. The Act marks the recognition of the increasing burden of duplicative government forms, reports and recordkeeping requirements.

Studies show that small businesses in particular are disproportionately burdened by Federal paperwork requirements. Since many paperwork burdens are the same for all companies regardless of size, small businesses' ability to compete is disproportionately affected by the paperwork aspects of regulation.

The PRA made several important changes in the law. It centralized Federal paperwork authority in the Office of Management and Budget and created the Office of Information and Regulatory Affairs (OIRA). The Act set goals for reduction of Federal paperwork by 25 percent from April 1981 to April 1983. It also provided that no person could be penalized for not complying with a Federal information collection requirement unless the requirement has been cleared by OMB and has been assigned an OMB clearance number.

The PRA authorized the OIRA to function until September 30, 1983, and Congress is currently considering reauthorization of the OIRA. The Chief Counsel for Advocacy has been charged by Congress with developing information to correct small business problems and is authorized by law to hold hearings for these purposes (Pub. L. 94-305, Sections 203(5) and 204(5)). Thus, the Chief Counsel seeks assistance from the public in gauging the progress made toward controlling regulations and paperwork through the Paperwork Reduction Act as well as other regulatory reform efforts. In addition the Chief Counsel oversees agency compliance with the Regulatory Flexibility Act, which directs agency analyses of both regulatory and paperwork burdens.

2. Who Should Comment or Testify?

Small business owners, small business organizations, or other individuals who can provide personal examples, statistical information, or other information or perceptions about trends in paperwork burdens affecting business at the Federal and state levels. For example, persons with experience with paperwork burdens related to the following would be particularly appropriate: Tax, government contracting, environmental, health and safety regulation, licensing, periodic business censuses, regulation of transportation, communications, banking or energy and construction.

3. Issues to Address

Information is welcome on any aspect of small business paperwork and recordkeeping policy, but specific responses for the following questions will be especially appreciated.

1. Have business-related Federal recordkeeping or reporting burdens increased or decreased since 1981?

2. Which paperwork requirements impose the greatest burdens on business? Please provide specific information on the costs imposed by the particular paperwork requirement or operational limitations. Are these changes that should be made in the paperwork requirement?

3. Are there examples where paperwork burdens have been reduced since 1981? What was the impact of these changes? Describe any initiatives by Federal agencies to involve small business in paperwork policy decisions.

4. Have state and local paperwork burdens changed since 1981? Please explain. Have states adopted paperwork requirements dropped by Federal agencies?

5. Is repetitious paperwork imposed by different units of the same agency or department, or by more than one agency or department of Federal or state government? Please describe.

6. Are you familiar with the public protection provision of the Paperwork Act? Do you know of Federal forms or recordkeeping requirements that do not bear an OMB clearance number? Document each one.

7. Are there changes that you would recommend in the Government's response to the paperwork problems of small businesses?

Dated: May 9, 1983.

Frank S. Swain,

Chief Counsel for Advocacy.

[FR Doc. 83-12812 Filed 5-11-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-023]

Certificate of Alternative Compliance; Notice of Certificate Granted for the 270' WMEC Class

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Pursuant to paragraph (c), Section 1605, Title 33 of the United States Code, notice of certification of alternative compliance granted to the 270' WMEC class of Coast Guard cutters is hereby made.

On January 5, 1983, the 270' Famous class was granted an exemption from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) vertical and horizontal positioning requirements for masthead lights. These exemptions were made under authority of Rule 1(e) of 72 COLREGS and Sec. 6 of the International Navigational Rules Act of 1977 (91 Stat. 309, 33 U.S.C. 1605).

Rule 23 of 72 COLREGS requires vessels over 50 meters in length to carry a forward and after masthead light. Section 2 of Annex I to 72 COLREGS requires the forward masthead light to be carried not less than 11.6 meters (the maximum beam of the vessel) above the hull. The 270' WMEC class cannot meet this requirement because of its special construction and purpose.

The 270' class is equipped with an optical sight connected to its COMDAC system. This sight is located directly aft of the forward mast location. If the forward light is placed at the required height, it would interfere with the operation of the sight. The alternative vertical position for the forward masthead light is approximately 10.7 meters above the main deck. This is the closest possible compliance with the positioning requirements of Section 2 of Annex I to 72 COLREGS without interfering with the special function of the vessel.

Section 3 of Annex I to 72 COLREGS specifies a minimum horizontal distance between the two masthead lights of half the vessel's length. The 270' WMEC class cannot meet this requirement because of its special construction and purpose.

The helicopter hangar and flight deck limit the separation on the after end of the vessel and the gun mount on the forward deck limits separation between the masthead lights to about 16.4 meters. This is the closest possible compliance with the positioning requirements of Section 3 of Annex I to 72 COLREGS without interfering with the special function of the vessel.

The vessels in the 270' class include, but are not limited to, the following:
CGC BEAR (WMEC 901)
CGC TAMPA (WMEC 902)
CGC HARRIET LANE (WMEC 903)
CGC NORTHLAND (WMEC 904)
CGC SPENCER (WMEC 905)
CGC SENECA (WMEC 906)
CGC ESCANABA (WMEC 907)
CGC TAHOMA (WMEC 908)
(WMEC 909)

(WMEC 910)
(WMEC 911)
(WMEC 912)
(WMEC 913)

A copy of the Certificate of Alternative compliance and documentation are available for inspection at Coast Guard Headquarters, Office of Navigation, Room 1606, 2100 Second St. S.W., Washington, D.C. 20593, between the hours of 8 a.m. and 3:30 p.m., Monday through Friday.

Dated: May 4, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83-12755 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Updated Report of the Fleet Status and Compliance Plans of U.S. Domestic Aircraft Operators as They Move Toward Compliance with the FAA's Aircraft Noise Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The table below summarizes the fleet compliance status as of January 1, 1977 (approximately the date the regulation was issued), the status as of April 1, 1980, January 1, 1981, January 1, 1982, January 1, 1983, and fleet projections for the phased compliance deadline of January 1, 1985. When the regulation was issued, slightly over 20 percent of the U.S. fleet met the FAA noise standards. As of January 1, 1983, almost 73 percent of the fleet complied and that percentage will reach 86 percent by January 1, 1985.

DISCUSSION: In December 1976, the FAA issued Subpart E of Part 91 of the Federal Aviation Regulations [14 CFR Part 91] which prescribes noise limits for U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates. These requirements prohibit domestic operation in the United States of affected airplanes after specified dates, with full compliance required by January 1, 1985.

In November 1980, the FAA issued a final rule (adopting Title III of the Aviation Safety and Noise Abatement Act of 1979) to extend these same noise compliance requirements to all operators of affected aircraft in the United States, whether U.S. or foreign registered. This rule also provided for exemptions to extend the compliance deadline for two-engine airplanes (DC-9, Boeing 737, BAC 1-11, and SE-201) to January 1, 1985 (for over 100 seats) or to January 1, 1988 (for 100 or fewer seats) as protection for small community service.

To ensure that all domestic operators are taking appropriate steps to meet the noise compliance requirements, the FAA amended 14 CFR Part 91 in December 1979, to require the operators of affected turbojet airplanes to provide the current status of their fleets and their plans for achieving timely and continuing compliance. The first summary report on Fleet Noise Compliance was published on July 17, 1980 (45 FR 48011), the second on August 6, 1981 (46 FR 40126), and the third on July 8, 1982 (47 FR 29754). This report is an update to that publication.

As originally issued, the FAA noise compliance regulation required full compliance by January 1, 1985. To date, the FAA has issued exemptions for 488 two-engine airplanes as protection for small community service. These exemptions were issued to 33 operators and extend the compliance dates to January 1, 1985, for 130 airplanes and to January 1, 1988, for 358 airplanes.

The table also indicates the pace at which U.S. operators are moving the four-engine narrowbody models (Boeing 707 and 720, DC-8) from domestic service. All of these will be gone by January 1, 1985, except for 75 stretch DC-8's, which are currently planned for reengining.

Information in the compliance plans submitted by many of the operators included future additions to their fleets. Where available, these data have been incorporated in the table. However, operators are not required to provide this type of information to the FAA under this program and, as a consequence, this table is not indicative of total future airplane purchases or the total future U.S. fleet.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, AEE-110, Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 755-9027.

Issued in Washington, D.C., on April 28, 1983.

Richard N. Tedrick,

Acting Manager, Noise Abatement Division, AEE-100.

NOISE COMPLIANCE FLEET PROJECTIONS

Airplane type	Jan. 1, 1977		Apr. 1, 1980		Jan 1, 1981		Jan 1, 1982		Jan 1, 1983		Jan 1, 1985	
	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying
A300	0	0	14	14	19	19	25	25	30	30	34	34
BAC 1-11	33	0	44	0	44	0	57	0	51	0	46	10
B707	277	0	190	0	147	0	84	0	80	0	0	0
B720	21	0	12	0	11	0	9	0	5	0	0	0
B727	842	186	1,082	540	1,076	648	1,138	764	1,073	1,067	1,068	1,068
B737	150	7	224	71	229	82	247	109	281	140	315	204
B747	112	35	141	121	146	132	151	150	148	148	151	151
CONVAIR	25	0	8	0	8	0	8	0	4	0	0	0
DC-8	224	0	164	0	161	0	143	2	133	21	75	75
DC-9	367	32	400	74	405	83	476	111	509	196	533	322
DC-10	124	124	146	146	152	152	162	162	165	165	166	166
L1011	91	91	91	91	93	93	110	110	117	117	110	110
SE210	0	0	6	0	8	0	4	0	2	0	1	0
B757	0	0	0	0	0	0	0	0	2	2	33	33
B767	0	0	0	0	0	0	0	0	19	19	89	89
BA146	0	0	0	0	0	0	0	0	0	0	6	6
Total	2,256	465	2,522	1,057	2,497	1,209	2,614	1,433	2,619	1,895	2,627	2,269
Percent		20.6		41.9		48.4		54.8		72.4		86.4

[FR Doc. 83-12675 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. 82-17, Notice 2]

Alternate Designs for Bridges; Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of policy statement.

SUMMARY: This notice provides a statement of FHWA policy on the development of alternate designs for major bridges to be constructed with Federal-aid highway funds. A proposed policy statement was published on October 18, 1982, in order to solicit public comments. Those comments as well as revisions to the proposed policy statement are discussed under the heading **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Mr. F. D. Sears, Review and Analysis Branch Bridge Division, (202) 472-7680, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, 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.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1979, the FHWA issued a Technical Advisory (TA) entitled Alternate Bridge Designs. This Technical Advisory was intended to stimulate competition in the design of safe and economical bridge structures and, at the same time, through the competitive bidding process, to take advantage of the prevailing economic conditions which will provide a finished structure at the lowest possible cost without sacrificing safety, quality, or aesthetics.

A memorandum was issued to all Regional Federal Highway Administrators on April 22, 1981, to strengthen FHWA's effort in promoting the use of alternate bridge designs among all State and local governments, including those that have adopted certification acceptance. On September 23, 1981, a second memorandum to all Regional Federal Highway Administrators requested each division office to review and revise its administrative procedures to ensure that alternate bridge designs would be incorporated in all major bridge projects. Guidelines were presented in still a third memorandum on June 16, 1982, to all Regional Federal Highway Administrators, so that FHWA field offices could take appropriate measures to assure themselves that the spirit and intent of alternate bridge designs were being followed.

On October 18, 1982, the FHWA published a notice of a proposed policy statement (47 FR 46403) on alternate bridge designs. The intent of this notice was to replace the current TA with a consolidated formal FHWA policy on Alternate Bridge Designs and to invite public comment thereon. This notice establishes a policy on alternate bridge design based on comments made to the docket as well as a further review.

Discussion of Comments

Sixty-eight comments were received in response to the proposed policy statement. Comments were submitted by representatives from the following interest groups: 43 government agencies (36 State, 6 local, and one Federal), 10 trade associations, 8 consulting firms, 6 contractors, and one private citizen.

A primary issue addressed by those submitting comments was the scope of the application of the proposed policy. Fourteen respondents indicated that the policy should only be applied to major bridges. Three respondents indicated that there should be no restrictions as to application. Eight respondents indicated a variety of estimated construction costs above which the policy should apply with the highest amount being $10 million. Although not specifically indicated in the October 18 Notice, it had been the intent of the FHWA that the policy would emphasize major bridges. Accordingly, the final policy statement has been revised to reflect the application to major bridges as defined in the Federal-Aid Highway Program Manual (FHPM 6-1-2-1).[1]

Another issue addressed concerned the requirements that States obtain documented concurrence of noncompetitiveness from industry to waive alternate design. Twenty-one respondents indicated opposition to such a requirement citing the difficulty and potential lack of objectivity in obtaining such concurrence. The FHWA agrees with the comments and for this reason, the final policy statement is revised to delete the requirement of documented concurrence.

Seventeen respondents addressed the utilization of value engineering clauses. While two respondents indicated that value engineering need not be applied, 10 respondents indicated that value engineering should apply at the design stage, while five indicated it should be applied during the construction stage. The final policy statement has been revised to encourage value engineering at the design stage. With regard to preliminary plan approval, 21 respondents commented that State expertise in bridge type selection should be recognized as a factor in reaching preliminary bridge plan approval decisions. The FHWA agrees with the comments made and for this reason, the final policy statement has been revised to reflect and acknowledge such State studies.

Upon further review, the provisions on specific construction methods within design documents and maintenance which were proposed in the October 18 Notice have been deleted. The deletions are being made because the povisions are considered not to be appropriately related to the policy being established. The provision on consideration of competitive materials and structural types has been simplified. Finally, a provision is added which states that the established policy shall not be interpreted to exclude consideration of alternate designs for any other type or classification of structure when appropriate.

Based upon the aforementioned analysis and discussion of comments made to the docket, the FHWA is establishing a policy to encourage alternate designs and strategies in the process of selecting the type of bridge to be constructed.

The final FHWA policy is as follows:

1. Preliminary plan development for major bridges should be based on engineering and economic evaluation of acceptable alternate designs. The definition of a major bridge is contained in the Federal-Aid Highway Program Manual (FHPM 6-1-2-1).

2. Alternate designs should consider the utilization of competitive materials and/or structural types.

3. Economic evaluation of preliminary estimates should take into consideration, to the maximum extent possible, the relative accuracy of estimates for state-of-the-art type methods of construction.

4. When comparative economic estimates are reasonably close to each other, two or more complete sets of contract documents should be prepared and advertised.

5. Value engineering at the design stage should be strongly encouraged.

6. Options should be considered for structure components (piling, expansion

[1] The FHPM is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. Major bridges are bridges estimated to cost more than $5 million, or having spans in excess of 150 feet, or viaduct type of structures whose total length is in excess of 1,000 feet. This criterion applies to individual units of separated dual bridges.

joints, bearings, prestressing systems, etc.).

7. A determination of FHWA approval and participation in the development of alternate or single project plans, specifications and estimates for major bridges will be made after evaluation of a State's submittal of preliminary bridge plans and cost studies. Recognizing that the States are experienced and have broad expertise in factors pertinent to bridge type selection in their States, the FHWA will review comprehensive State studies and subsequent recommendations as a primary factor in reaching preliminary bridge plan approval decisions.

At the some time, FHWA approvals will be based upon the need to ensure safe, efficient and cost effective bridge projects which meet the aesthetic and structural requirements of the site and are based upon the latest, proven technology and techniques.

8. The submittal of preliminary bridge plans for approval should be accompanied by the State's plan for developing the project to completion (horizontal or vertical stage construction, number of contracts, etc.).

9. This policy shall not be interpreted as deterring any State or FHWA field office from considering alternate designs for any other type or classification of structure which they would consider appropriate.

This policy is written with the intent of taking advantage of the evolving state-of-the-art of bridge construction and fluctuating economic conditions in the market place while not compromising sound engineering, safety, quality control, or aesthetics.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The Procedures as provided by OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and project apply to this program.)

Issued on: May 5, 1983.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-12734 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; San Mateo County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project on Route 1 in San Mateo County, California.

FOR FURTHER INFORMATION CONTACT: David Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California, 95809, telephone (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare a draft environmental impact statement (EIS) on the proposed solutions to road failure on Route 1 at Devil's Slide. The limits of the proposed action run from Half Moon Bay Airport to Linda Mar Boulevard in the City of Pacifica, a distance of 7 miles.

The EIS will discuss the no project alternative and three route alternatives: the bypass alignment adopted by the California Highway Commission; a bypass alignment in the general vicinity of Martini Creek; and the existing Route 1 alignment. For the adopted and Martini Creek alignments, two design alternatives are under consideration.

1. Construction of a 2-lane highway with slow-vehicle lanes on grades; and

2. Construction of a 4-lane, ultimate 6-lane, freeway.

The existing alignment alternative will only provide a continuance of the existing 2-lane highway by realignment in the immediate vicinity of Devil's Slide.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal.

A public scoping meeting was held on March 10, 1983, at the Farallone View Elementary School in Montara. Notice of the meeting was published in the *San Mateo Times*, the *Pacific Tribune*, and the *Half Moon Bay Review*. Another scoping meeting for local, State, and Federal agencies is scheduled for May 26, 1983, at 10:00 a.m., in Room 22, Caltrans District Office, 150 Oak Street, San Francisco, California. Public agencies involved with this project will be notified by mail of this meeting.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address given above.

Issued on: May 3, 1983.

James H. Lamb,

Acting District Engineer, Sacramento, California.

[FR Doc. 83-12742 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Dockets HS-83-1 through HS-83-7]

Petition for Exemption From the Hours of Service Act

Correction

In FR Doc. 83-11615 appearing on page 19812 in the issue of Monday, May 2, 1983, the date at the beginning of the sixteenth line of column two should have read, "June 10, 1983."

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

Calendar of Meetings for International Harmonization of Safety Standards

The National Highway Traffic Safety Administration (NHTSA) will continue its participation during this year in the international meetings to harmonize U.S. and foreign motor vehicle safety standards. These meetings will be conducted by the Group of Experts on the Construction of Vehicles (WP29) under the Inland Transport Committee of the United Nation's Economic Commission for Europe (ECE) and the eight groups of Rapporteurs of the WP29. The NHTSA participates in all of the rapporteur meetings except those on Pollution which are presented by the Enviornmental Protection Agency (EPA).

This calendar consists of those meetings in which the NHTSA and the EPA will provide representation and in which the public interest is expected. It is published for information and planning purposes and the meeting dates and places are subject to change. Inquiries or comments relating to specific meetings should be made at least two weeks preceding that meeting.

FOR FURTHER INFORMATION CONTACT: Francis J. Turpin, Office of Vehicle Safety Standards, (NRM-10), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-2212.

May 31-June 3, 1983

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-second Session—Rome, Italy

June 16–17, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-second Session—Geneva, Switzerland

June 20–24, 1983

Group of Experts on the Construction of Vehicles (WP29), Seventieth Session—Geneva, Switzerland

July 12–15, 1983

Group of Rapporteurs on Protective Devices (GRDP), Thirteenth Session—Geneva, Switzerland

August 23–25, 1983

Group of Rapporteurs on Crashworthiness (GRCS), Thirteenth Session—Geneva, Switzerland

August 30–September 2, 1983

Group of Rapporteurs on Pollution and Energy (GRPE), Eighth Session—Geneva, Switzerland

September 6–8 or September 20–22, 1983

Group of Rapporteurs on Noise (GRB), The actual dates of the meeting await confirmation by the Chairman of GRB, Twelfth Session—Rome, Italy

October 4–7, 1983

Group of Rapporteurs on Lighting and Light Signalling (GRE), Eleventh Session—The Hague, Netherlands

October 27–28, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-third Session—Geneva, Switzerland

October 31–November 4, 1983

Group of Experts on the Construction of Vehicles (WP29), Seventy-first Session—Geneva, Switzerland

November 8–11, 1983

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-third Session—Frankfurt, Germany

November 15–18, 1983

Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Twenty-eight Session—Edinburgh, United Kingdom

December 6–9, 1983

Group of Rapporteurs on Brakes and Running Gear (GRRF) Fourteenth Session—Geneva, Switzerland

The following meetings took place earlier this year:

January 18–20, 1983

Group of Rapporteurs on Crashworthiness (GRCS), Twelfth Session—Geneva, Switzerland

February 8–10, 1983

Group of Rapporteurs on Pollution and Energy (GRPE), Seventh Session—Geneva, Switzerland

February 22–25, 1983

Group of Rapporteurs on Protective Devices (GRDP), Twelfth Session—Rome, Italy

March 10–11, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-first Session—Geneva, Switzerland

April 6–8, 1983

Group of Rapporteurs on Brakes and Running Gear (GRRF), Thirteenth Session—Geneva, Switzerland

Issued on May 4, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-12425 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 83-04; Notice 1]

Planning for Safety Priorities; 1983 Safety Priorities Plan

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of availability and request for comment.

SUMMARY: This notice announces the availability of the NHTSA publication, "Planning for Safety Priorities: 1983 Safety Priorities Plan," and invites the public to submit comments. The plan presents NHTSA's program priorities in three basic categories: Highway and traffic safety, vehicle crashworthiness and vehicle crash avoidance. The plan also describes the significant safety problems, which were derived from analyses of NHTSA's statistical data bases, and the method and procedures used in establishing the safety priorities.

DATE: Deadline for submission of comments is July 5, 1983.

ADDRESSES: Interested persons may obtain a copy of the plan free of charge by contacting: Office of Administrative Operations (NAD-51), National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, SW., Washington, D.C. 20590; (202-426-0874).

All comments should refer to the docket and notice numbers and be submitted to: Docket Section (NAD-52) Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8:00 a.m. through 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Ellen Kranidas, Director, Office of Planning and Analysis, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, SW., Washington, D.C. 20590; (202-426-1600).

SUPPLEMENTARY INFORMATION: Previously, NHTSA has published multi-year plans for rulemaking, highway safety, and research and development. In contrast to past plans, the Safety Priorities Plan embodies a conscious, coordinated and carefully devised balance between motor vehicle and highway safety types of activity. The agency has, for the first time, systematically focused one planning effort on the entire spectrum of known available or potential solutions. Instead of the more traditional compartmentalized approach to different aspects of the problem (i.e., highway and motor vehicle), this year-long planning effort has brought all agency resources together to address the same issues at the same time.

Some of the measures examined in this plan are immediate and short term, capable of being adopted now. Others, especially those involving extensive research, are of longer duration, or still in the planning process. In all cases, however, NHTSA's assessment of current safety priorities reflects the agency's concern that our national resources be directed at those activities and targets of opportunity which have the most realistic prospect of success.

The highway safety portion of the agency's planning exercise has led to greater emphasis than ever before on two aspects of driver/operator and passenger concern: Alcohol and drug impairment, and failure to use existing occupant restraint technology. Together, these areas of concern account for more than one-half of all accidents, and more than one-half of all fatalities and injuries in those accidents which do occur. The effects of improvements in these areas can be major, immediate and achievable through existing technology and vehicle equipment.

The agency has also accelerated its exploration of ways to improve motor vehicle safety technology. Expanding data collection and analysis activities are enabling NHTSA to better understand the causes of motor vehicle accidents and the manner in which people are injured when a crash does occur.

As a result, NHTSA can attempt to lessen the incidence of accidents and the severity of injuries through vehicle crash avoidance and crashworthiness activities, respectively. The top

priorities in the former area include vehicle lighting and braking improvements—particularly in the area of heavy truck braking—and in the latter area include steering assembly, side impact protection and vehicle interior improvements.

The safety priorities outlined in this plan are the result of a careful analysis by the agency of the Nation's safety problems, and the costs and benefits of alternative solutions to them. Although the agency is already undertaking development of the safety improvements described herein, the priority setting process, which is also described in detail, is ongoing and dynamic. It allows changes to be made in response to new accident data or research results and sets an orderly, disciplined and comprehensive set of criteria for the making of such changes.

Thus, this plan is also being published for public comment so that the agency may benefit from the expertise of those many persons and organizations concerned with highway safety.

(Secs. 401 et seq., Pub. L. 97-35, 95 Stat. 357 (23 U.S.C. 401 et seq.) and secs. 101 et seq., Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1381 et seq.); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on May 4, 1983.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 83-12272 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions; List

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes June 14, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9038-N	E. I. Du Pont De Nemours & Company, Wilmington, DE.	49 CFR 173.301(d)	To authorize shipment of tetrafluoroethylene, inhibited, classed as a flammable gas in DOT Specification 3A2400 and 3AA2400 cylinders, interconnected by means of manifolding. (Mode 1.)
9039-N	Badger Welding Supplies, Inc., Madison, WI	49 CFR 173.34(e)(15)(i)	To authorize DOT Specification 3A and 3AA cylinders which are 35 years old or older to be hydrostatically tested every 10 years instead of every 5 years for shipment of those commodities authorized in 3A or 3AA cylinders. (Mode 1.)
9040-N	The Continental Group, Inc., Lombard, IL	49 CFR 173.249a (d)(3)	To manufacture, mark and sell non-DOT specification plastic lined fiber drums with non-removable plastic top heads for shipment of certain corrosive liquids. (Modes 1, 2, and 3.)
9041-N	Hercules Incorporated, Wilmington, DE	49 CFR 173.100 (bb), 175.3	To authorize shipment of devices, in specially designed packagings, containing small amounts of explosive described as detonating fuze, Class C. (Modes 1, 4.)
9042-N	Noury Chemical Corporation, Burt, NY	49 CFR 173.221	To authorize shipment of a Tert-Butyl Cumyl peroxide classed as an organic peroxide in DOT Specification 57 portable tanks. (Mode 1.)
9043-N	Ozella Harrington Trucking Company, Benson, AZ.	49 CFR 173.154(a)(18)	To authorize shipment of ammonium nitrate, solution, classed as an oxidizer, in cargo tanks comparable to DOT Specification MC-307, except they have a design pressure of less than 25 psi. (Mode 1.)
9044-N	O'Neal, Jones & Feldman, Inc., St. Louis, MO	49 CFR 172.400, 173.25(a), 175.30(a)(3)	To authorize shipment of limited quantities of a poison B liquid, n.o.s. in specially designed composite type packaging without labeling. (Modes 1, 4, and 5.)
9045-N	International Paper Company, New York, NY	49 CFR 173.154, 173.245b, 173.365	To manufacture, mark and sell non-DOT specification six-sided corrugated fiberboard drums not to exceed 30 gallon capacity for shipment of various flammables, oxidizers and Class A poisonous solids. (Modes 1, 2.)
9046-N	Schenectady Chemicals, Inc., Schenectady, NY.	49 CFR 173.245	To authorize shipment of certain corrosive liquids, n.o.s. in DOT Specification 57 portable tanks. (Mode 1.)
9047-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.124(a), 175.3	To authorize use of copper-bearing (brass) valves in DOT Specification cylinders and DOT Specification 5p drums containing ethylene oxide. (Modes 1, 2, 3, and 4.)
9048-N	Emerson Electric Company, Statesboro, GA	49 CFR 173.119, 173.304, 173.315	To manufacture, mark and sell meter proving units to be affixed to a truck or trailer used to calibrate meters containing liquid hydrocarbon products. (Mode 1.)
9049-N	U.S. Steel Supply Container, Chicago, IL	49 CFR 178.134-4	To authorize use of 256 DOT Specification 37M steel drums of 55 gallon capacity which were inadvertently embossed as DOT Specification 37A, for shipment of those commodities authorized in DOT Specification 37M. (Modes 1, 2.)
9050-N	United Executive Jet, Inc., Chesterfield, MO	49 CFR 172.101, 175.30	To authorize carriage of ammunition for small-arms with explosive projectile, Class A explosive via cargo-only aircraft. (Mode 4.)
9051-N	Amerex Corporation, Trussville, AL	49 CFR 178.50-19	To manufacture, mark and sell DOT Specification 4B cylinders with markings stamped on the skirt or footstand of the cylinders, for shipment of those commodities presently authorized in DOT Specification 4B cylinders. (Modes 1, 2, 3, 4, and 5.)
9052-N	Chemical Handling Equipment Co., Inc., Detroit, MI.	49 CFR Part 173, Subpart D, Subpart F, 173.266.	To manufacture, mark and sell non-DOT specification 225 gallon rotationally molded polyethylene portable tanks enclosed in a metal cage, for shipment of those corrosive liquids and hydrogen peroxide presently authorized in DOT Specification 34 and certain flammable liquids. (Modes 1, 2.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9053-N	Delaware Valley Industrial Gases, Inc., Waterford Works, NJ.	49 CFR 173.34(L)	To authorize the rebuilding of DOT Specification 4 series cylinders in accordance with procedures approved initially by the Bureau of Explosives. (Modes 1, 2, 3, 4, and 5.)
9054-N	Florida Drum Company, Inc., Pine Bluff, AR	49 CFR 173.119, 173.125, 173.256, 173.266(b), Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification 55-gallon polyethylene containers, for shipment of certain corrosive liquids, including those presently authorized in DOT Specification 34; hydrogen peroxides; classed as an oxidizer, and ethyl and methyl alcohol, classed as flammable liquids. (Modes 1, 2, and 3.)
9055-N	Welchem, Inc., Houston, TX	49 CFR 173.119, 173.245	To authorize shipment of various flammable liquids or corrosive materials (oil well treating compounds) contained in 6 separate 60 gallon steel tanks firmly mounted on the chassis of a truck. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 3, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-12823 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "p" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes May 26, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
2587-X	Mansfield Oxygen Corp., Mansfield, OH.	2587
2709-X	U.S. Department of Defense, Washington, DC.	2709
3109-X	Hydraulic Research Textron, Pacoima, CA.	3109
3630-X	Mallinckrodt, Inc., Paris, KY	3630
4262-X	Schlumberger Well Services, Houston, TX.	4262
4719-X	Dow Chemical Co., Freeport, TX.	4719
5022-X	U.S. Department of Defense, Washington, DC.	5022
5022-X	United Technologies Corp., Sunnyvale, CA.	5022
5022-X	Aerojet Strategic Propulsion Co., Sacramento, CA.	5022
5062-X	Dow Chemical Co., Plaquemine, LA.	5062
5206-X	Monsanto Co., St. Louis, MO	5206
5600-X	Amoco Oil Co., Whiting, IN	5600
5600-X	Ozark-Mahoning Co., Tulsa, OK.	5600
5662-X	Great Lakes Chemical Corp., El Dorado, AR.	5662
6016-X	Livingston Medical Products Co., Modesto, CA.	6016
6126-X	Rhone-Poulenc Inc., Monmouth Junction, NJ.	6126
6477-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6477
6538-X	Wonder Corporation of America, Norwalk, CT (see footnote 1).	6538
6712-X	Air Products and Chemicals, Inc., Allentown, PA.	6712
6738-X	Texas Eastman Co., Longview, TX.	6738
6759-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6759
6759-X	Austin Powder Co., Cleveland, OH.	6759
6824-X	Bio-Lab, Inc., Congers, GA	6824
7060-X	Charles R. Wall, d.b.a. HZm RAM Air, Cornelius, OR.	7060
7082-X	Born Free Plastics, Inc., Houston, TX.	7082
7282-X	M-R Plastics and Coatings, Inc., Maryland Heights, MO.	7282
7413-X	Chilton Metal Products Division, Chilton, WI (see footnote 2).	7413
7440-X	Roux Laboratories, Inc., Jacksonville, FL.	7440
7755-X	Varian Associates, Inc., Palo Alto, CA.	7755
7886-X	W.M. Barr and Co., Inc., Memphis, TN.	7886
7943-X	Alstar Co., Saugus, CA	7943
7943-X	All Pure Chemical Co., Tracy, CA.	7943
7943-X	Hasa Chemicals, Inc., Saugus, CA.	7943
7966-X	The Enterprise Companies, Wheeling, IL.	7966
8051-X	Mauser-Werke GmbH, Brul, West Germany, NY (see footnote 3).	8051
8123-X	Texas Instruments Inc., Dallas, TX.	8123
8129-X	ARCO Chemical Co., Newtown Square, PA.	8129
8129-X	The American Recovery Co., Baltimore, MD.	8129
8129-X	Ecoflo, Inc., Bladensburg, MD	8129
8129-X	Findly Chemical Disposal, Inc., Riverside, CA.	8129
8181-X	Labelmaster, Chicago, IL	8181
8196-X	GCS Container Service, SA, Chiasso, Switzerland.	8196
8232-X	G.C.S. Container Service, Chiasso, Switzerland.	8232
8308-X	Caspersen, Inc., Glencoe, IL	8308
8308-X	Associated Couriers, Inc., Maryland Heights, MO.	8308
8511-X	E. I. du Pont de Nemours & Co., Wilmington, DE.	8511
8511-X	Interox America, Houston, TX	8511
8552-X	Brenner Tank, Inc., Fond du Lac, WI.	8552
8573-X	All Pure Chemical Co., Tracy, CA (see footnote 4).	8573
8573-X	Alstar Co., Saugus, CA (see footnote 5).	8573
8573-X	Hasa Chemicals, Inc., Saugus, CA (see footnote 6).	8573
8579-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	8579

Application No.	Applicant	Renewal of exemption
8583-X	Process Engineering, Inc., Plaistow, NH.	8583
8645-X	Austin Powder Co., Cleveland, OH.	8645
8709-X	Delta Drum, Inc., Crete, IN (see footnote 7).	8709
8842-X	HTL Industries, Inc., Duarte, CA (see footnote 8).	8842
8859-X	AVM Corp., Pittsburgh, PA	8859
8871-X	Chase Bag Co., Oak Brook, IL (see footnote 9).	8871
8877-X	Allied Chemical, Morristown, NJ (see footnote 10).	8877
8921-X	Hoover Universal, Inc., Beatrice, NE (see footnote 11).	8921
9034-X	Airco Industrial Gases, Riverton, NJ (see footnote 12).	9034
9037-X	Great Lakes Chemical Corp., West Lafayette, IN (see footnote 13).	9037

[1] To modify exemption by reducing nominal thickness of metal containers from 0.31 mm to 0.28 mm.
[2] To authorize water as an additional mode of transportation.
[3] To authorize poison B liquids, n.o.s. and flammable liquids/poisonous, n.o.s. and other poisons or flammable liquids, as additional commodities.
[4] To reissue exemption as shipper oriented rather than manufacture, mark and sell.
[5] To reissue exemption as shipper oriented rather than manufacture, mark and sell.
[6] To reissue exemption as shipper oriented rather than manufacture, mark and sell.
[7] To authorize shipment of certain flammable liquids/corrosive, n.o.s., classed as flammable liquids, as additional commodity.
[8] To change the wall stress at the minimum specified test pressure from 50,000 psi to 60,000 psi.
[9] To authorize water as an additional mode of transportation.
[10] To authorize DOT specification 12A fiberboard box as additional container for up to 1 gallon glass bottles of certain flammable liquid/corrosive, n.o.s. and corrosive liquids, n.o.s.
[11] To authorize ethyl and methyl alcohols and aqueous solutions, classed as flammable liquids and 52% or less hydrogen peroxide solution, classed as an oxidizer, as additional commodities.
[12] To authorize water as an additional mode of transportation.
[13] To authorize shipment of methyl bromide and methyl bromide mixtures in non-DOT specification foreign made cylinders.

Application No.	Applicant	Parties to exemption
4453-P	Seco, Inc., Greenwood, AR	4453
6397-P	CP Chemicals, Inc., Sewaren, NJ.	6397
6762-P	Brooks Scientific Inc., Cleveland, OH.	6762
6874-P	Valley Forge International Co., (USA), Diablo, CA.	6874
7052-P	K-V Associates, Inc., Falmouth, MA.	7052
7076-P	Brooks Scientific, Inc., Cleveland, OH.	7076
8084-P	E. I. du Pont de Nemours & Co., Wilmington, DE (see footnote 1).	8084
8111-P	Reuter-Stokes, Inc., Cleveland, OH.	8111
8129-P	Borg-Warner Chemicals, Inc., Parkersburg, WV.	8129
8129-P	The Curators of the University of Missouri, Columbia, MO.	8129
8129-P	Union Carbide Corp., Danbury, CT.	8129
8129-P	Reichold Chemicals, Inc., So. San Francisco, CA.	8129
8129-P	Ford Aerospace Communication Corp., Palo Alto, CA.	8129
8129-P	Midwest Research Institute, Kansas City, MO.	8129
8248-P	Air Products and Chemicals, Inc., Allentown, PA.	8248
8445-P	Union Carbide Corp., Danbury, CT.	8445
8554-P	St. Lawrence Explosives Corp., Adams Center, NY.	8554
8554-P	Minnesota Explosives Co., Biwabik, MN.	8554
8706-P	Trical, Inc., Morgan Hill, CA	8706
8870-P	Everpure, Inc., Westmont, IL	8870
8877-P	Union Carbide Corp., Danbury, CT.	8877
8937-P	Dow Chemical Co., Freeport, TX.	8937
9052-P	Clawson Tank Co., Clarkson, MI.	9052

[1] Request party status and to authorize rail and cargo vessel as additional modes of transportation

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 5, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-12824 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, April 25–April 29, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between April 15, 1983 and April 29, 1983 to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Stree SW., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under the Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirments. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare tham, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between April 25, 1983, and April 29, 1983.

DOT No: 2138
OMB No: 2120–0035
By: Federal Aviation Administration
Title: Statement of Qualifications (DAR–DMIR–DER–DPRE–DME)
Forms: FAA Form 8110–14
Frequency: As Required
Respondents: Aviation specialists in five work areas
Need/Use: Information collected is used to determine eligibility of applicants leading to appointment as a parachute rigger, mechanic examiner, engineering representative, inspector, airworthiness representative

DOT No: 2150
OMB No: 2126–0008
By: National Highway Traffic Safety Administration
Title: Vehicle Owner's Questionnaire Survey, Interviews
Forms: None
Frequency: On Occasion
Respondents: Individuals or households
Need/Use: Solicits information from certain vehicle owners to determine whether a safety defect exists in motor vehicles/equipment or tires.

DOT No: 2151
OMB No: 2127–0042
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 576, Record Retention
Forms: None
Frequency: On Occasion
Respondents: Motor Vehicle Manufacturers
Need/Use: Manufacturers retain complaints, reports and other records or motor vehicle malfunctioning that may be related to safety, and may be used to investigate reported defects or noncompliances.

DOT No: 2152
OMB No: 2125–0076
By: Federal Highway Administration
Title: Written Notice of Death After Filing Accident Report
Forms: Form MCS–5OT or 50B
Frequency: On Occasion
Respondents: Motor carriers operating in interstate or foreign commerce
Need/Use: Motor carriers must give written notice of death to the Federal Highway Administration, if death occurs within 30 days as a result of a reported accident.

DOT No: 2153
OMB No: 2127–0051
By: National Highway Traffic Safety Administration
Title: Vehicle Identification Number, Standard 115 Report
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of autos, buses and trucks
Need/Use: To standardize identification of each motor vehicle in event there is a recall for defect or noncompliance.

DOT No: 2154
OMB No: 2120–0098
By: Federal Aviation Administration
Title: Airplane Operator Security—FAR 108
Forms: FAA Form 1650–17, X-ray Systems Radiation Leakage Report (Baggage Inspection)
Frequency: As required
Respondents: Holders of FAA operating certificates for scheduled or charter passenger operations of over 30-seat capacity
Need/Use: Civil Aviation Security Programs require X-ray systems for baggage. Radiation surveys are needed to ensure that X-ray systems used in the security screening of baggage meet applicable performance standards without excessive X-ray leakage.

DOT No: 2155
OMB No: 2115–0051
By: United States Coast Guard
Title: Operation and Recordkeeping Requirements for Cranes and Drilling Rigs Offshore
Forms: None
Frequency: On Occasion
Respondents: Oil companies, drilling contractors, and construction companies operating facilities with cranes on the outer continental shelf.
Need/Use: These information requirements serve as a source for verification of plans, maintenance, testing, and operator qualifications for cranes on the Outer Continental Shelf (OCS), facilities, Mobile Offshore Drilling Units (MODUs), and a few industrial vessels. Information requirements to become effective with publication of the final rule, estimate publication October 1984.

DOT No: 2156
OMB No: 2137–0029
By: Research and Special Programs Administration
Title: Application for Exemption
Forms: None
Frequency: Nonrecurring
Respondents: State and local governments; shippers and carriers of hazardous materials; manufacturers of containers for hazardous materials
Need/Use: To obtain information from entities wishing to obtain an exemption from the hazardous materials regulations. Information is used by the office of Hazardous Materials' staff to evaluate requests to determine if they must be granted or denied.

DOT No: 2157
OMB No: None
By: United States Coast Guard
Title: Subchapter Q—Manufacturers Test Reports (46 CFR), Safety Valves, Fusible Plugs, and Flame Arrestors
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of safety valves, fusible plugs, and flame arrestors
Need/Use: Requirements imposed upon the manufacturers of the specified safety devices for submission of drawings and tests reports are necessary to determine whether the items meet minimum levels of safety and performance, and also serve to identify approved items.

DOT No: 2158
OMB No: 2127–0050
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 574, Tire Identification and Recordkeeping
Forms: 2 formats are permitted
Frequency: On Occasion
Respondents: Manufacturers of tires, tire dealers and purchasers
Need/Use: This regulation requires tire manufacturers' outlets to secure and record names and addresses of purchasers of new tires so that the purchasers can be notified in case of a safety recall; independent tire dealers will no longer be required to maintain records but will provide a postcard to be forwarded to the manufacturer by the purchaser of the tire.

DOT No: 2159
OMB No: 2127–0049
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 575, Consumer Information Regulations
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of motor vehicles/equipment/tires
Need/Use: Regulation establishes a system by which information on the performance and safety of new motor vehicles and new tires is made available to prospective purchasers directly, and by compiled reports available to consumers to comparison shop.

Issued in Washington, D.C., on May 4, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83-12857 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-62-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board For Rehabilitation Research and Development; Meeting

In accordance with Public Law 92–463, the Veterans Administration gives notice of a meeting of the Scientific

Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Marriott Hotel, 1221 22nd Street, N.W., Washington, DC 20037, July 6 and 7, 1983, beginning at 9 a.m. on Wednesday and 9 a.m. on Thursday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the July 6th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications. This review involves oral review and discussion of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigator. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with Section 552b, Subsections (c)(4), (c)(6), and (c)(9)(B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs under Section 10(d) of Public Law 92–463 as amended by Section 5(c) of Public Law 94–409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Dr. Larry P. Turner, Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420 (Phone: (202) 389–5177), at least 5 days before the meeting.

Dated: May 5, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-12757 Filed 5-11-83; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Health Services Research and Development; Meeting

The Veterans Administration gives notice under the provisions of Public Law 92–463 that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development will be held at Executive House, 1515 Rhode Island Ave. NW. (at Scott Circle), Washington, DC on June 3, 1983. The meeting will open at 8:30 a.m. and adjourn at 3 p.m. The purpose of the meeting will be to develop general advice to the Director, Health Services Research and Development Service regarding the administration of that Service's research program.

The meeting will be open to the public to the seating capacity of the room. Members of the public may submit written statements or questions to the Chairman, David Levine, M.D., for consideration by the Committee. Such members of the public may be asked to clarify submitted material prior to its consideration by the Committee.

Dated: May 5, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-12758 Filed 5-11-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 93
Thursday, May 12, 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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), May 17, 1983.

PLACE: Commission Conference Room No. 200, second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-4-FOIA-51-SE, concerning a request for documents from a closed age discrimination charge file.
4. Freedom of Information Act Appeal No. 83-02-FOIA-031-MK, concerning a request for documents from a case file.
5. Regulations Implementing Section 4(g) of the Age Discrimination in Employment Act (TEFRA).

CLOSED:

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Withdrawal of prior Commissioners Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTRACT PERSON FOR MORE INFORMATION: Treava McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued May 10, 1983.

[S-665-83 Filed 5-12-83; 4:12 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From May 12th Open Meeting

May 9, 1983.

The following item has been delted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the May 12, 1983, Open Meeting and previously listed in the Commission's Notice of May 5, 1983.

Agenda, Item No., and Subject

Policy—2—*Title:* Amendment of FM Table of Assignments regarding Helena, Montana (BC Docket No. 80-523). *Summary:* The Commission will review a Broadcast Bureau decision which assigned four Class C FM channels to Helena, Montana and will review a petition for stay.

Issued: May 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-675-83 Filed 5-10-83; 10:11 am]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 17, 1983 at 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, May 19, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive Presidential Primary Matching Payments
Explanation and justification governing collecting agents and joint fundraising
Proposed revisions to Presidential Election Campaign Fund Regulations
Procedures for processing of civil penalties received by the FEC
Finance Committee report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-684-83 Filed 5-18-83; 4:00 pm]

BILLING CODE 6715-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 20842, May 9, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 11, 1983, 10 a.m.

CHANGE IN THE MEETING: The following item has been added to the agenda:

Item No., Docket No. and Company

CP-6. TC82-43-002, Kansas-Nebraska Natural Gas Company, Inc.

Kenneth F. Plumb,

Secretary.

[S-685-83 Filed 5-10-83; 3:53 pm]

BILLING CODE 6717-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., May 18, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 82-58: Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezula Trade—Consideration of status of proceeding and petition of Sea-Land Service to intervene.
2. Petition of the Drug and Toilet Preparation Traffic Conference, Inc. for Clarification of the Refund Order issued in Docket No. 81-10.
3. Docket No. 80-22: International Paper Company v. Seatrain Pacific Services, S.A., et al.—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-676-83 Filed 5-10-83; 2:15 pm]

BILLING CODE 6730-01-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–23]

TIME AND DATE: 2:30 p.m., Tuesday, May 24, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:

a. Certain radar detectors and accompanying owner's manuals (Docket No. 935).

5. Investigation 751–TA–7 (Salmon Gill Fish Netting from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-682-83 Filed 5-10-83; 3:37 pm]

BILLING CODE 7020-02-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–22A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 20533, May 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. Tuesday, May 17, 1983.

CHANGES IN THE MEETING: Deletion of an item originally scheduled for this meeting (item to be added to the agenda for Tuesday, May 24, 1983, at 2:30 p.m.):

Item No. 6—Investigation 751–TA–7 (Salmon Gill Fish Netting from Japan)—briefing and vote.

In conformity with 19 CFR 201.37(b), Commissioners Eckes, Stern, and Haggart determined by unanimous consent that Commission business requires the change in subject matter by deletion of the agenda item, affirmed that no earlier announcement of the deletion was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

S-683-83 Filed 5-10-83; 3:38 pm]

BILLING CODE 7020-02-M

8

MISSISSIPPI RIVER COMMISSION.

Cancellation Notice

TIME AND DATE: 9 a.m., May 16, 1983.

PLACE: On board *MV Mississippi* at Foot of Eighth Street, Cairo, IL. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been cancelled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S-677-83 Filed 5-10-83; 2:20 pm]

BILLING CODE 3710-GX-M

9

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 17, 1983.

PLACE: On board MV *Mississippi* at City Front, Vicinity of Beale Street, Memphis, TN. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been cancelled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S-678-83 Filed 5-10-83; 2:20 pm

BILING CODE 3710-GS-M

10

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 20, 1983.

PLACE: On board MV *Mississippi* at Foot of Prytania Street, New Orleans, LA. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been canceled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S-679-83 Filed 5-10-83; 2:44 pm]

BILLING CODE 3710-GX-M

11

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 18, 1983.

PLACE: On board MV *Mississippi* at City Front, Greenville, MS. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been canceled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S-680-83 Filed 5-10-83; 2:44 pm]

BILLING CODE 3710-GX-M

12

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 16, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, May 17:*

10:00 a.m.:
Discussion/Possible Vote on Contested Issues in Callaway (Closed—Exemption 10)

2:00 p.m.:
Discussion/Possible Vote on Full Power Operating License for McGuire-2 (Public Meeting)

ADDITIONAL INFORMATION:

Discussion of Steps to Decision in TMI–1 Restart scheduled for May 10, *cancelled.*
Discussion of Management-Organization and Internal Personnel Matters scheduled for May 11, *cancelled.*
On May 4 the Commission voted 5–0 to hold Discussion and Possible Actions on Indian Point, to be held on May 5.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.
May 10, 1983.

[S-681-83 Filed 5-10-83; 3:21 pm]

BILLING CODE 7590-01-M

federal register

Thursday
May 12, 1983

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Initial and Permanent Program Regulations; Prime Farmland; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 716, 779, 783, 785, and 823

Surface Coal Mining and Reclamation Operations; Initial and Permanent Program Regulations: Prime Farmland

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 special initial and permanent program permit application and performance standard rules for surface coal mining and reclamation operations on prime farmland. These rules will reduce the burden of previous rules, minimize duplication, comply with court orders, and provide for internal consistency by: (1) Combining the reconnaissance-inspection requirements with the permit-application requirements, (2) providing a limited exemption for lands occupied by coal-preparation plants and support facilities, (3) modifying provisions for soil removal and stockpiling, and (4) establishing new procedures for determining success in the restoration of soil productivity. In addition, in response to a court directive, OSM is removing the April 3, 1983, prime farmland "grandfather" exemption cutoff date from the initial and permanent regulatory programs.

EFFECTIVE DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202-343-5954.

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmland as defined in Section 701(20) of the Act. Permit-application, information, and approval requirements are contained in Sections 507(b)(16), 508(a)(2)(C), 508(a)(5), and 510(d) of the Act.

Section 507(b)(16) of the Act requires permit applications to contain a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmland. Section 508(a)(2)(C) of the Act requires permit applications to contain a statement of the productivity of the land prior to mining, including the appropriate classification as prime farmland. Section 508(a)(5) of the Act requires that the reclamation plan submitted as part of the permit application include a plan for soil reconstruction, replacement, and stablization, pursuant to Section 515(b)(7) of the Act. Furthermore, Section 510(d)(1) of the Act provides that the regulatory authority, after consultation with the Secretary of Agriculture, shall grant a permit to mine on prime farmland if it finds in writing that the operator has the technological capability to restore such mined areas, within a reasonable time, to levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil-reconstruction standards in Section 515(b)(7) of the Act.

Statutory performance standards specifically for prime farmland are found in Sections 515(b)(7) and 519(c)(2) of the Act. Section 515(b)(7) of the Act sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. In addition, Section 519(c)(2) of the Act states that performance bonds shall not be released until soil productivity for prime farmland has returned to levels of yield equivalent to those of nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 507(b)(16) of the Act.

These rules revise OSM's special permit-application requirements and performance standards for surface coal mining operations on prime farmland as previously set forth in 30 CFR 716.7, 779.27, 783.27, and 785.17 and 30 CFR Part 823. The proposed rules were published at 47 FR 19076 on May 3, 1982. The preamble to the proposed rules explained many of the changes in detail and is incorporated as part of this preamble.

Throughout the development of these rules, OSM has solicited public comments and recommendations. A preproposal draft of these rules was provided to State regulatory authorities and other interested parties. Several interagency meetings were held with the Soil Conservation Service (SCS) of the U.S. Department of Agriculture (USDA) relative to its role in providing soil-survey standards, permit-review procedures, and soil-reconstruction specifications for prime farmland soils as required by Sections 507(b)(16), 510(d)(1), and 515(b)(7) of the Act. OSM made provisions to hold, upon request, public hearings and public meetings. OSM convened public hearings in Denver, Colorado, on June 16, 1982, and in Springfield, Illinois, on June 23, 1982.

The public comment period closed on August 25, 1982. It was subsequently reopened again on September 7, 1982, and closed on September 10, 1982, in response to congressional interest on the proposed rules.

More than 50 individuals and organizations representing State regulatory authorities, conservation agencies, educational institutions, Federal agencies, private industry, environmental interests, and private citizens offered in excess of 200 individual comments which were carefully considered in developing these final rules.

These final rules include changes to both the permit-application requirements and the performance standards for prime farmland.

II. Discussion of Rules Adopted and Responses to Comments

Deletion of §§ 779.27 and 783.27

The previous rules had three sections (§§ 779.27, 783.27, and 785.17) that contained information and permit-application requirements for prime farmland. Previous §§ 779.27 and 783.27 contained nearly identical procedures for surface and underground mining activities to identify prime farmlands through a pre-application investigation. Section 785.17 established permit application requirements for prime farmland. These final rules amend § 785.17 to incorporate the requirements of §§ 779.27 and 783.27. Sections 779.27 and 783.27 have been deleted. This reorganization relieves regulatory authorities and operators of the unnecessary burden of searching several rules to determine their permit requirements on prime farmland.

Two commenters objected to the proposal to consolidate previous §§ 779.27 and 783.27 under § 785.17(b). One of these commenters stated that the proposed changes and consolidation would significantly weaken the Federal rules by allowing the State regulatory authority to require much fewer data than presently required by the SCS for prime farmland indentification. The commenter also objected that the advisory role of the SCS to the regulatory authority is not mandatory, thus allowing the State regulatory authority alone to determine what constitutes an appropriate

reconnaissance inspection. By allowing this, the commenter felt the proposed rule failed to establish minimum national standards.

Close coordination between the SCS and the regulatory authority within each State is necessary in order to have an effective prime farmland reclamation program. OSM intends that the administrative and technical process of the reconnaissance inspection developed by the regulatory authority in consultation with the SCS will become part of the State regulatory program and will be set forth in sufficient detail to describe the reconnaissance-inspection requirement. Section 785.17(b) requires the regulatory authority to consult with the SCS in determining the nature and extent of the required reconnaissance inspection. Thus, the advisory role of the SCS is mandatory in keeping with Section 510(d)(1) of the Act. However, the regulatory authority is required to make the final determination.

The rules will not be weakened through the collection of fewer data because the permit application must contain sufficient information to support the findings regarding the identification of prime farmland. The standards for identifying prime farmland have not been softened. Moreover, the SCS monitors the results of reconnaissance inspections.

The preservation of prime farmland requires criteria which allow State programs to reflect differences among the eastern, midwestern, and western coal areas. Extreme differences in prime farmland size, configuration, and management exist between these coal areas; therefore, personnel within each State who are most familiar with the region are best qualified to protect prime farmland. OSM and SCS will maintain close review of State regulatory programs and provide appropriate guidance where necessary.

OSM has generally adopted the proposed rules as the new final rules for the reasons described in this preamble and the preamble to the proposed rules at 47 FR 19076 (May 3, 1982).

Where changes have been made from the proposal, these changes are explained in the discussion that follows:

A. Section 785.17(b) Application contents: Reconnaissance inspection

Final § 785.17(b)(1) requires that every permit application contain the results of a reconnaissance inspection to determine if prime farmland soils exist. This reconnaissance inspection could be a review of an existing soil survey or, if none is available, an onsite field survey. The nature and extent of the reconnaissance inspection will be determined by the regulatory authority and the SCS within each State. These requirements are necessary to comply with Section 507(b)(16) of the Act. OSM has adopted § 785.17(b)(1) as proposed, except that the word "State" has been deleted because the term "regulatory authority" is proper and more inclusive.

One commenter felt that the proposed rule would weaken the process for identifying prime farmland by eliminating reconnaissance inspections. OSM has not eliminated the requirement for reconnaissance inspections but rather has transferred this requirement from §§ 779.27 and 783.27 to § 785.17.

Two commenters supported the concept of a State-by-State determination of prime farmland soils and soil-reconstruction standards and the proposed coordination between the States and SCS in defining the nature and extent of the reconnaissance inspection. They felt this would eliminate the burden of applying general, nationwide criteria and would allow the States to consider local conditions more accurately. These rules do not eliminate nationwide criteria as the commenter suggests, but they do allow necessary consideration of local conditions.

Another commenter felt that the SCS and the regulatory authority must obtain public input when they determine the nature and extent of the reconnaissance inspection. This commenter stated that any reconnaissance-inspection requirement imposed by the regulatory authority should be based upon facts which clearly demonstrate the necessity for the standard and which give all parties an opportunity to contribute to the decision-making process.

Public input into each permit application is provided for in the permitting process. This input can include comments on the appropriate nature and extent of reconnaissance inspections. Additionally, public input can be provided in the development and amendment of State programs, and any additional standards that may be deemed necessary by the regulatory authority based on local conditions can be included as an aspect of the State program.

Final § 785.17(b)(2) as adopted is unchanged from the proposed rule and simply requires the applicant to submit a statement to the effect that no prime farmland historically used for cropland was found during the reconnaissance inspection and to include the basis upon which such a conclusion was reached.

One commenter supported the requirement that only a statement and the basis for conclusion by the operator is needed to verify that no prime farmland soils exist. Other commenters suggested that OSM delete the last sentence of proposed Paragraph (b)(2) and replace it with the negative-determination requirements of previous § 779.27(b), amended to allow a negative conclusion if the area of prime farmland soil is an economically unusable farming unit because of size, shape, or location. One commenter asserted that: (1) The previous criteria provide valuable guidance to operators in attempting to ascertain the presence or absence of prime farmland; (2) the circumstances for small areas, odd shapes, or isolated locations of prime farmland are recognized by the Secretary of Agriculture in the description of prime farmland at 7 CFR 657.5; (3) the approved North Dakota State program recognizes that a "viable economic unit" is an integral component of prime farmland identification; and (4) Congress was concerned that those prime farmland acreages that do not comprise more than 10 percent of the surface area should not be considered prime farmland for the purposes of the permitting requirements and performance standards.

OSM recognizes that the criteria in previous § 779.27(b) provide guidance in describing the nature and extent of the reconnaissance inspection. However, the level of detail in establishing criteria for the existence of prime farmland must be developed within each State because of the variety of soil surveys that may be used in any one prime farmland region, the progress of completion of soil surveys within each State, and the type of prime farmland soils found. The previous soil-survey negative-determination criteria were merely limits of the National Cooperative Soil Survey (NCSS) in describing and mapping prime farmland soils. These limits still apply, but the SCS will tailor these NCSS limits to the prime farmland soils found in each State. Therefore, the guidance will not only be available but will in fact be specifically tailored for each State.

OSM and SCS are aware of the general reference to the economics of prime farmland contained in 7 CFR 657.5(a)(1), which states that prime farmland "* * * has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed * * *." This is a general statement about prime farmland and is not specifically related to size. More specific physical and chemical qualities of prime farmland soils, set forth in 7 CFR 657.5(a)(2), are utilized to locate prime farmland soils. Soils with

these physical and chemical soil qualities in areas with an adequate growing season and moisture supply consistently produce sustained high yields of crops and are one principal measure in the identification of prime farmland.

The State of North Dakota has included the concept of a viable economic unit in its State surface mining law (N.D. Cent. Code § 38–14.1–02, 22. "Prime farmland") and regulations (N.D. Admin. Code § 69–05.2–01–02, 100. "Prime farmlands") and regulation amendment I, July 30, 1982, (N.D. Admin. Code § 69–05.2–01–01., 114. "Viable economic unit"). However, this is not the basis upon which the SCS identifies and maps prime farmland soils. The North Dakota State regulatory program, including the above-mentioned provisions concerning viable economic units, was approved by the Secretary with the caveat that the determination of whether land constitutes prime farmland would be made by the State Conservationist of the SCS (45 FR 82220, Dec. 15, 1980). The Secretary approved the program because the State regulations provide for SCS determination of prime farmlands. Complexes of prime farmland soils exist in North Dakota which are difficult to delineate from an agronomic standpoint. The SCS and the regulatory authority in North Dakota have agreed upon a method of soil handling for both prime farmland and non-prime farmland soils. OSM and SCS are aware of the special prime farmland conditions within North Dakota and are satisfied that North Dakota regulations will result in the restoration of the productive capacity of prime farmland soils and should be consistent with the regulations adopted today.

The Conference Report to the Act notes that the Senate bill contained a provision that "[a]ny mine application whose area in prime farmlands exceeded 10 percent of the total area included in the application would have to demonstrate that such lands would be restored to full productivity" (House Report No. 95–493, July 12, 1977, p. 105). The House bill contained no such provision and the conferees did not include the 10-percent provision in the Act. OSM believes an across-the-board exemption for small areas of prime farmland soils is not warranted because of the vast differences in prime farmland value, crops, and farmland uses throughout the country. For instance, 10 acres of tobacco land in Indiana, 200 acres of corn in Illinois, and 640 acres of wheat in North Dakota represent considerably different prime farmland uses and values. These differences can best be described by agriculturalists and the regulatory authority within each State. Soil surveys used for operational conservation planning will be the basis for locating and sizing small prime farmland units. This is discussed more fully below in reference to § 785.17(b)(3).

The permit-application and approval process for any particular proposed operation will likely be reviewed by the SCS because the SCS has the major responsibility for the conservation of prime farmland soils and has local offices in nearly every county of the United States. Also, the USDA, in cooperation with other Federal agencies, is identifying the effects of Federal programs on the conversion of prime farmland to nonagricultural uses as required by Subtitle I of the Farmland Protection Policy Act of 1981, Pub. L. 97–98. OSM is taking full advantage of the location and responsibilities of the SCS to be assured that prime farmland soils are preserved in accordance with the Act.

Final § 785.17(b)(3) requires that where the reconnaissance inspection indicates that there may be prime farmland, the applicant must determine if a soil survey used for operational conservation planning, as defined by the SCS, exists for these lands and whether soil-mapping units within the proposed permit area have been designated as prime farmland. Where no soil survey exists, the applicant is responsible for providing a soil survey of the proposed permit area.

One commenter believed that the SCS soil surveys are not of adequate scale and suggested using a scale of 1:6,000. OSM and SCS cannot accept the use of a scale of 1:6,000 or other alternative scale for soil surveys when identifying and locating prime farmland soils. Soil surveys used by the SCS for operational conservation planning have been identified by the SCS as the soil survey needed to identify and locate prime farmland soils. the scale of these soil surveys ranges between 1:15,840 (4 inches per mile) and 1:24,000 and is in accordance with the standards of the NCSS.

Two commenters suggested that § 785.17(b)(3) be placed ahead of § 785.17(b)(1) because it is easier to check SCS soil-survey maps for prime farmland soils and then to check only those areas for historical cropland use, rather than the reverse.

The adopted order of these paragraphs is appropriate because the soil-survey information will likely be more readily available than data on historical cropland use. The rule adopted would not preclude the method of investigation described by the commenter. A determination that prime farmland does not exist for the purposes of the Act can be based upon either historical cropland use or a soil survey. One commenter also stated that the requirement to conduct a soil survey should be clarified to apply only to the permit area and include only prime farmland soil. OSM agrees with this comment and has modified the rule language accordingly. To be consistent with the opinion in *In re: Permanent Surface Coal Mining Regulation Litigation*, Civ. No. 79–1144, Mem. opin. at 39 (February 26, 1980), the language has been changed to require that a soil survey be made "If no soil survey exists, * * * of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland."

Final § 785.17(b)(3) (i) and (ii), respectively, direct applicants to submit a statement that no prime farmland exists if none is found or to comply with the permit-application provisions where prime farmland soils are present. No comments were received on these sections and they are unchanged from the proposed rule.

B. Section § 785.17(c) Application contents

Final § 785.17(c) sets forth the permit-application requirements if prime farmland soils are located within the proposed permit area.

One commenter asked that before any future mining is approved, all soil surveys be available and that up-to-date production levels for crops be established. This commenter did not want any prime farmland surface mined unless each acre will be returned to its present capability. OSM and SCS agree with this commenter and continue to require soil surveys and crop yields for prime farmland that is to be disturbed.

Final § 785.17(c)(1) specifies that soil surveys used in permit applications must meet the standards of the NCSS. The SCS has the primary national responsibility in maintaining soil-survey standards, and OSM and SCS have clarified the requirements of the NCSS by referencing the SCS National Soils Handbook (U.S. Soil Conservation Service, 1982) in the rule as an acceptable guide to the NCSS. This handbook maintains current procedures for conducting soil surveys to the standards of the NCSS and is available in all SCS area and State offices. Its inclusion in the rule is to provide notice of easily accessible information to clarify the standards of the NCSS.

Final § 785.17(c)(1)(i) incorporates by reference USDA Handbooks 18 and 436 (U.S. Soil Conservation Service, 1951, 1975) that contain procedures to the standards of the NCSS. OSM and SCS have clarified SCS's responsibilities with respect to the NCSS by stating that the SCS established NCSS standards as well as maintains updated procedures for conducting these soil surveys through the National Soils Handbook. OSM does not consider this a substantive change to these rules. Two commenters pointed out that the Director's approval within this section needs to be updated. The date of the Director's approval for incorporation by reference has been updated.

One commenter wanted § 785.17(c)(1)(i) deleted because the commenter felt it unnecessary for OSM to commit itself to publishing notices in the **Federal Register** of changes to the NCSS. OSM and SCS find it desirable to maintain one standard for soil surveys as required by Section 507(b)(16) of the Act. These standards are those of the NCSS. All materials submitted to the **Federal Register** under "incorporation by reference" must be updated periodically as required by 1 CFR Part 51.

Final § 785.17(c)(1)(ii) delineates more specifically the requirements for soil surveys. This section lists soil properties which must always be described for each prime farmland soil within the permit area and makes it clear that the SCS is to determine the content of representative soil-profile descriptions including, but not limited to, soil-horizon depth, pH, and soil densities. The applicants may use other soil-profile descriptions from the local area if approved by the SCS.

One commenter requested additional language in § 785.17(c)(1)(ii) to assure that the regulatory authority has authority to require additional information on other physical and chemical properties of the soil to establish that the operator has technological capability to restore the permit area to the soil-reconstruction standards. OSM has added the following sentence to provide this clarification: "The regulatory authority may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil-reconstruction standards of Part 823 of this chapter."

One commenter wanted the regulatory authority, rather than the SCS, to have responsibility for approving soil-profile descriptions. OSM believes that such approval is the proper responsibility of the Secretary of Agriculture. The SCS is the lead agency for the NCSS and as such has the responsibility to maintain soil-survey criteria for prime farmland soils. These criteria, in the form of physical and chemical properties of soil, are to be given to the regulatory authority by the SCS. This is in keeping with the Secretary of Agriculture's responsibilities under Sections 507(b)(16) and 510(d)(1) of the Act. The regulatory authority, in cooperation with the SCS, will use these soil-survey specifications in determining if the soil surveys submitted by applicants are adequate and, ultimately, in approving permits for areas containing prime farmland.

Another commenter pointed out that the proposed rule would require more stringent soil descriptions than the previous rule. OSM does not agree that these rules are more stringent, because the standards of the NCSS have always been the standards for soil surveys. The term "soil survey" was, and continues to be, defined in terms of the NCSS. (See the definition of "soil survey" in 30 CFR 701.5.)

Another commenter requested using "average densities" rather than "range of densities" in determining soil profiles. This commenter also pointed out the need to prepare new soil descriptions because the SCS does not routinely collect soil-density information with representative soil-profile descriptions. OSM and SCS believe that the "range of soil densities" required in the final rule provides better information for use by the regulatory authority than "average densities" would, because soil densities are reported in ranges in the soil survey. Also, a range is more realistic and makes more technical sense than an average, which is a single number. OSM and SCS agree with the commenter that at times some additional information on soil densities will have to be collected by the operator to supplement existing soil surveys.

Three comments requested deletion of properties associated with the soil description such as pH and soil densities because: (1) The operator would probably gather this data anyway, (2) these data are not mentioned in the Act or in USDA Handbook 18, (3) there is no need for these data if an equal or higher productivity standard is met, and (4) the procedures undertaken by operators to achieve the requirement would be expensive and time consuming. The final rule retains this listing of soil properties. The three elements of the soil profile—soil-horizon depths, pH, and soil densities—have been added as a requirement to the previous rules because OSM and SCS believe such information is essential for determining the adequacy of all proposed soil-reconstruction plans. One of these commenters felt that OSM has wrongly assumed that soil density is an important soil property, stating that there is no accurate way to define soil density and that there are no studies or technical justification to support OSM's approach. OSM and SCS do not agree with this commenter and point out that density data are required because it is well established that increased soil densities result in decreased crop yields, thereby guaranteeing failure when measured against the "equal or higher level of yield" standard of Section 510(d)(1) of the Act. (Guernsey and others, 1979, pp. 69–79).

Final § 785.17(c)(2) requires the operator to submit a plan which gives soil-reconstruction, replacement, and stabilization methods to be used on prime farmland soils. This plan is required by Section 508(a)(5) of the Act. The purpose of this plan is to assist the regulatory authority and the SCS in evaluating the technological capability of the operator to reconstruct prime farmland soils to the specifications of Part 823. This new final rule is unchanged from the proposed rule.

One commenter supported the proposed rule change in § 785.17(c)(2) by stating that to demonstrate the capacity to comply with the performance standards would be less burdensome and more flexible and practical than attempting to specifically identify all the detailed requirements given in Part 823. Another commenter felt that more information should be required to judge the technological capability of an operator to return prime farmland to its original capability. This commenter wanted OSM to require information such as the proposed method and type of equipment to be used for removal, storage, and replacement of prime farmland soils. The commenter believed the deletion from previous § 785.17(b)(2) of the method and equipment to be used violated Section 507(b)(7) of the Act.

Previous § 785.17(b)(2) duplicates § 780.11(a) and is therefore unnecessary. The operation plan under § 780.11 must include a description of the method of coal mining, engineering techniques, and equipment to be used for all operations. This section fully implements Section 507(b)(7) of the Act, and there is no need to duplicate it in the special permit-application rules for prime farmland which supplement the general requirements. The regulatory authority in consultation with the SCS can require

more detailed information on the proposed method and type of equipment as needed on a site-by-site basis.

Final § 785.17(c)(3) requires that the applicant provide agricultural-school studies or other scientific data to demonstrate that the proposed method of reclamation will be successful. These studies and data are to be applicable to the prime farmland soil under investigation. Where soil mixing is a proposed reclamation technique, data must be provided to demonstrate that the proposed mix of soil will achieve levels of yield equal to, or higher than, those on nonmined prime farmland in the surrounding area.

Several commenters suggested that crop yields required in proposed § 785.17(c)(3) be modified by the phrase "in the surrounding area" rather than by the phrase "as existed before mining" in order to conform with the language used in Section 510(d)(1) of the Act. OSM agrees that this change is appropriate as it removes ambiguity and makes clear that applicants must demonstrate the ability to meet the standard of Section 510(d)(1) of the Act. This clarification does not otherwise alter the interpretation of § 785.17(c)(3).

Another commenter felt that a permit should not be approved until there is documentation, through field trials conducted since passage of the Act, to establish that equivalent crop yields can be achieved. Another commenter felt that conclusive proof that the required crop yields will be met must be specified and that the burden of proof should lie with the SCS. OSM agrees that documented field trials will more than likely be used for the demonstration required by § 785.17(c)(3). Because of the many variables involved in describing the adequacy of research plots and the duration of applicable research efforts, the regulatory authority and the SCS must review and evaluate the conditions under which agricultural-school studies or other scientific data were made. However, the operator is responsible for making the required demonstration.

One commenter opposed deletion of the parenthetical reference to water management from this section because this kind of documentation is the only basis upon which approval of mining of prime farmland can be made.

OSM does not agree with the commenter's assertion that this change was either significant or substantive. The term "management" under the previous rule and the rule as adopted includes water management, pesticide management, proper use of fertilizers, use of appropriate crop varieties and rotations, and whatever other management practices are commonly accepted for the locality. OSM has deleted the parenthetical reference to water management to eliminate redundancy and to avoid listing all the applicable forms of management.

Final § 785.17(c)(4) is a new section that requires that the applicant include in the reclamation plan the established productivity under high levels of management of each prime farmland soil to be mined. This prime farmland soil productivity is routinely documented within the SCS soil surveys and is readily available from SCS offices.

Originally, § 785.17(b)(8) required a permit application for prime farmlands to include in the reclamation plan current estimated yields under a high level of management for each soil to be mined. The rule further set these estimated yields as the target yields by which reclamation success on prime farmland was to be judged. This use of high levels of management to set reclamation standards was remanded to the Secretary in *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144, Mem. opin. at 5 (D.D.C., May 16, 1980). The court held that permit approval and bond release depend upon a showing of revegetation success based only on equivalent levels of management and that the Secretary could only require the high levels of management standard in the reclamation-plan information rule. On August 4, 1980 (45 FR 51549), OSM suspended § 785.17(b)(8) insofar as it requires a demonstration in the permit application of current estimated yields under a high level of management. The proposed rule would have deleted all reference to high levels of management in either the reclamation plan or as a standard for permit approval or bond release (47 FR 19076, May 3, 1982).

One commenter supported the deletion of the "high levels of management" information requirement of previous § 785.17(b)(8), because that langauge went too far in establishing high management yields as a reclamation target. However, this commenter pointed out that Section 508(a)(2)(C) of the Act requires that reclamation plans provide information on the productivity of land prior to mining, including average yields under high levels of management. The commenter suggested that this requirement should be retained for informational purposes relative to Section 508(a)(2)(C) only. OSM agrees with this commenter and is retaining the informational requirements of Section 508(a)(2)(C) of the Act by establishing a new final § 785.17(c)(4) patterned after the language of the Act.

C. Omission of previous § 785.17 (b)(4) and (b)(6)

One commenter opposed the deletion of previous § 785.17(b)(4) because without it the regulatory authority's ability to locate and monitor separate soil stockpiles as required in Section 515(b)(7)(B) of the Act would be inhibited. OSM is deleting this paragraph because it repeats the minimum requirements for reclamation and operation plans under 30 CFR Parts 780 and 784. These parts require that the reclamation-plan portion of the permit application show the location of each topsoil and subsoil storage area. Since § 823.12 (c)(1) and(c)(2) require the operator to store the topsoil separately from the B and C horizons, and both separately from other soil, the general permit-application rules are sufficient to provide the regulatory authority with all the information it needs to monitor separate soil stockpiles. Redundancy is eliminated by removing this section.

Previous § 785.17(b)(6), which required plans for seeding or cropping the final-graded prime farmland soils, was proposed to be deleted in its entirety. One commenter opposed the deletion of § 785.17(b)(6) on the grounds that it would weaken the regulatory authority's ability to evaluate whether plans for seeding or cropping are consistent with reconstruction plan which will apply equivalent levels of management. OSM has deleted this section because it duplicated other reclamation- and operation-plan requirements of Parts 780 and 784. Because the standard for determining revegetation success on prime farmland is to achieve levels of yield equivalent to yields on nonmined land of the same soil type in the surrounding area under equivalent levels of management, the reclamation plan submitted under § 780.18 or § 784.13 will have to show how the applicant plans to meet that standard. Therefore, previous § 785.17(b)(6) is not needed to ensure that the standards of Section 510(d)(1) of the Act are met.

D. Section 785.17 (d) and (e) Consultation With the Secretary of Agriculture and Issuance of Permit

Final § 785.17(d) has been reorganized to clarify the responsibilities of the Secretary of Agriculture under this section. This paragraph is consistent with the previous interpretation of the responsibilities of the USDA and the SCS regarding prime farmland matters.

Final § 785.17(d)(1) recognizes that the Secretary of Agriculture has certain responsibilities with respect to prime

farmland soils and that these responsibilities have been assigned to the SCS State Conservationist within each State. The title "Administrator" in the proposal was changed to "Chief" to be consistent with the current SCS position title.

Final § 785.17(d)(2) requires that the State Conservationist provide to the regulatory authority a list of prime farmland soils and their locations, physical and chemical characteristics, crop yields, and other data that are necessary to adequately support prime farmland soil descriptions. OSM has added this paragraph, with SCS concurrence, to clarify the responsibilities of the State Conservationist in providing prime farmland soil-survey information to the regulatory authority.

Final § 785.17(d)(3) requires that the State Conservationist assist the regulatory authority in describing the nature and extent of the reconnaissance inspection. This is the same requirement as § 785.17(b)(1) and is repeated here to consolidate and clarify the responsibilities of the State Conservationist.

Final § 785.17(d)(4) requires that the regulatory authority consult with the SCS State Conservationist before approving any permits concerning prime farmland. The State Conservationist will provide review and comment on the proposed method of soil reconstruction. Where the State Conservationist considers the soil-reconstruction methods inadequate, he or she will suggest revisions which will result in more complete and adequate reconstruction.

Two commenters supported the expanded role of the SCS, while another commenter suggested that OSM further strengthen the SCS role with the regulatory authority. One of these commenters felt that there may be a timing problem because this rule will be finalized before the SCS and regulatory authority can establish soil-reconstruction specifications and determine the nature and extent of the reconnaissance inspection. This commenter felt these rules should have an extended effective date that will provide time for coordination between the SCS and the regulatory authority. OSM recognizes that this coordination will take time. However, OSM and SCS have already begun discussions of how the rules would be implemented and believe that there is no need to postpone the effective date. Furthermore, the Secretary of Agriculture's role is clear in this section and no modification is necessary.

Another commenter requested deletion of Paragraphs (d) and (e) and their replacement by a new Paragraph (d) which would incorporate the requirements of Section 510(d)(1) of the Act. This commenter also objected to requiring the applicant to negotiate with both the regulatory authority and the SCS. Section 515(b)(7) of the Act requires the Secretary of Agriculture to establish soil-reconstruction specifications. The Secretary of Agriculture has assigned this responsibility to the Chief of the SCS. Section 785.17(d) requires the regulatory authority, not the applicant, to consult with the SCS for review of prime farmland reclamation plans. Implementation of the soil-reconstruction specifications is the responsibility of the regulatory authority in consultation with the SCS. Although this rule does not preclude the applicant from dealing directly with the SCS, the applicant is not required to negotiate with the SCS. The final rule retains paragraphs (d) and (e).

One commenter requested language to make it clear that this section applies only to areas to be mined and reclaimed and does not apply to underground mines. Section 510(d)(1) of the Act requires that the special prime farmland permit-approval standards, including consultation with the Secretary of Agriculture, apply whenever the area proposed to be mined contains prime farmland. The language of the proposed rule has been retained because it is consistent with this statutory language. Contrary to the commenter's assertion, the prime farmland provisions of the Act do apply to disturbed areas associated with underground mining. The permit requirements of Sections 506, 507, 508, and 510 of the Act apply to any surface coal mining operation, which, as defined by Section 701(28) of the Act, includes the surface effects of underground mining. Likewise, the performance standards of Section 515 of the Act (through the operation of Section 516(b)(10) of the Act) and bond-release provisions of Section 519 of the Act apply to any surface coal mining operation, including the surface effects of underground mining. The U.S. District Court for the District of Columbia also held that the Secretary does have the authority to apply the prime farmland rules to the surface effects of underground mining. *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79-1144. Mem. Opin. at 3, (D.D.C., May 16, 1980). The language of the proposed rule has not been removed as suggested by the commenter.

Final § 785.17(e)(2) requires that, before a permit is issued, the regulatory authority must find that, the permit incorporates the contents of the soil-reclamation plan submitted by the applicant under § 785.17(c) after consideration of revisions as suggested by the SCS State Conservationist. OSM has changed the reference from the Secretary of Agriculture to the State Conservationist in keeping with § 785.17(d)(1). This is not a substantive change from the proposed rule.

E. Part 823 Special Permanent Program Performance Standards

Part 823 sets forth soil-removal, storage, and replacement specifications, as well as specifications for revegetation and restoration of soil productivity for prime farmland soils that are disturbed. Some prime farmland soils do not need to be restored according to these special performance standards because of exemptions in § 823.11 that are based upon historical use, grandfather rights, construction of an approved water body, or the existence of a long-term preparation plant or support facility. However, the general performance standards and bond-release provisions do apply to those areas or facilities that qualify for the exemption.

One commenter felt that the prime farmland performance standards should be as exacting (or more so) as the standards for designating lands as unsuitable for surface coal mining.

Section 522 of the Act sets forth the State planning process for the designation of lands as unsuitable for surface coal mining. Under this section, the regulatory authority determines whether any lands are unsuitable for certain types of surface coal mining operations based upon a technical and economic feasibility study of achieving the reclamation requirements of the Act or based upon other criteria in Section 522(a)(3) of the Act. Sections 515(b)(7) and 519(c)(2) of the Act provide explicit performance standards for the mining and reclamation of prime farmland. In addition, the permitting sections, as discussed previously, clearly condition approval of a prime farmland permit on a demonstration that the performance standards can and will be met. These prime farmland standards are independent of the unsuitability provisions and should not be confused with that separate process. OSM has therefore rejected the commenter's suggestion.

Final § 823.1 delineates the scope and purpose of Part 823 and provides that the special environmental protection

performance standards, reclamation standards, and design standards apply to surface coal mining and reclamation operations on prime farmland. No comments were received on this section. This final rule is not changed from the proposed rule.

F. Section 823.4 Responsibilities

Final § 823.4 is a new section which sets forth the responsibilities of the SCS and the regulatory authority with respect to the establishment and regulation of specifications for removal, storage, replacement, and reconstruction of prime farmland soils. The responsibilities outlined in this section have been consolidated here for clarity and are not new.

Final § 823.4(a) requires that the SCS within each State establish specifications for prime farmland soil removal, storage, replacement, and reconstruction. This was proposed as § 823.14(a) and has been moved to § 823.4(a) to clarify the responsibilities of the USDA as required by Section 515(b)(7) of the Act.

Final §823.4(b) requires that the regulatory authority within each State utilize the soil-reconstruction specifications established by the SCS to carry out its responsibilities regarding the prime farmland soil-removal, storage, replacement, and reconstruction provisions of § 785.17 and the criteria and schedule for release of performance bonds under 30 CFR Subchapter J. This new paragraph consolidates and clarifies the responsibilities of the regulatory authority required by Sections 510(d)(1) and 519(c) of the Act.

Several commenters expressed concern with respect to the requirement that the SCS establish soil-reconstruction specifications. Two commenters supported this requirement, while five commenters objected. Two of the latter group felt that it would be confusing if the SCS set these specifications and that the role of the SCS and regulatory authority must be clarified. Two other commenters felt that to have the SCS set these specifications was not within the spirit or intent of the concept of State primacy. Another commenter felt that the proposed rules place an inappropriate amount of responsibility on the SCS for levels of crop yield. This commenter felt that any appropriate USDA agency would provide greater flexibility in the development of the reclamation plan. Another commenter questioned whether the SCS could maintain the responsibility for these specifications.

OSM and SCS point out that Sections 507(b)(16) and 515(b)(7) of the Act require the Secretary of Agriculture to establish soil-survey standards and soil-removal, storage, replacement, and reconstruction specifications for prime farmlands to be mined and reclaimed. In order to best meet the special needs of each State with respect to prime farmland soil-reconstruction and mining methods, OSM and SCS have agreed that detailed soil-reconstruction specifications must be determined on a State-by-State basis, whereas the permanent program rules, which are national in scope, should be limited to identifying general elements of concern in soil reconstruction. The SCS is primarily responsible for locating, describing, and establishing standards and specifications and otherwise identifying prime farmland soils. It has had many years of experience and is best qualified to establish and maintain the prime farmland soil-reconstruction specifications on a State-by-State basis. Also, SCS maintains data on crop yields for prime farmland soils. OSM is adding § 823.4(a) as a result of comments received requesting clarification of the role of the SCS in establishing the performance standards under Part 823.

G. Section 823.11 Applicability

Final § 823.11 sets forth exclusions from the prime farmland performance standards for: (1) Coal preparation plants, support facilities, and roads actively used over long periods of time which affect a minimal amount of land, (2) approved water bodies, and (3) prime farmland not historically used as cropland and "grandfathered" prime farmland.

One commenter objected to giving States greater flexibility to grant variances from the prime farmland soil-reconstruction specifications. This commenter felt that the new rules would increase the likelihood that inadequate soil-reconstruction practices would be used and thereby jeopardize a successful restoration of prime farmland productivity. OSM disagrees with this commenter. More flexibility at the State level is needed to incorporate the specific requirements of local conditions and thereby ensure successful restoration of each particular prime farmland soil.

Final § 823.11(a) excludes from the special prime farmland performance standards land occupied by coal preparation plants, support facilities, and roads associated with surface and underground mines, in accordance with the decision in *In re: Permanent Surface Mining Regulation Litigation*, No. 79-1144 (D.D.C., May 16, 1980), pp. 1-3. The Court evaluated the preservation of the A and B or C soil horizons with respect to compacted soil horizons and the ability of the operator to alleviate this compacted condition with deep tillage. The District Court ruled that the prime farmland performance standards of the Act do apply to the surface effects of underground mining operations but suggested that a limited exemption be made for surface facilities which are actively used for extended periods of time and which affect a minimal amount of land. OSM has extended this exclusion to preparation plants, support facilities, and roads of surface mines which will be actively used over long periods of time because of the similarity of such long-term uses and their effects for both types of mining.

The Court pointed out that the Act's reclamation standards technically apply where construction of roads and support facilities removes the topsoil of prime farmland. The Court also noted, however, that an operator may need only to engage in deep tilling to restore the soil productivity of the prime farmland where support facilities have compacted the B or C soil horizons. The Court recognized that the chief surface intrusions from undergound mining activities stem from support facilities such as roads, loading structures, coal-processing plants, and stockpiles.

The Court also noted that one difference between surface and underground mines is the extended period of time that most underground mines are in operation. The extended period of time which support facilities must be actively used in order to qualify for this exemption was discussed by the Court as being 20 to 40 years. The Court indicated, without elaboration, that support facilities utilizing a minimal amount of land should be allowed an exemption. The Court further noted (footnote 4, p. 3) that the operator would still be required to engage in a preapplication investigation (reconnaissance inspection) and comply with the applicable permit and bonding requirements.

The general topsoil rules require that all topsoils be removed from areas to be disturbed in mining and reclamation including areas utilized by support facilities (§§ 816.22 and 817.22). OSM generally agrees that it is better to leave the B and C soil horizons in place and alleviate a compacted condition with deep tillage or other methods. However, some support facilities such as waste areas, machine repair areas, and coal processing areas may chemically alter the B or C soil horizons drastically, thus decreasing or eliminating the soil productive capacity. The B or C soil horizons should be protected from chemical contamination if necessary to

achieve the applicable vegetative cover and productivity required by §§ 816.116 and 817.116. The operator may choose to remove and store the B or C soil horizons and replace them at a future date, or the operator may choose to place a protective barrier between the support facility causing chemical contamination and the B or C soil horizons. In addition, under final § 816.22(a)(3), the regulatory authority may require that the B and C horizons be separately removed, segregated, stockpiled, and replaced to ensure retention of soil capabilities. Thus, where the exemption of § 823.11(a) applies, OSM is requiring that the operator protect the productive capacity of the soils in accordance with §§ 816.22 or 817.22 where the permanent retention of these facilities or roads has not been included as part of the approved postmining land use.

One commenter suggested that the surface-facility exemption should also apply to the investigative aspects (preapplication investigation) of the rules. OSM has not accepted the suggestion. The District Court specifically held that the operator must comply with the investigative aspects of these rules.

Five commenters supported extending the exemption to both surface and underground mining activities. They felt that this was a logical extension and provided adequate flexibility. Two commenters opposed the exemption for surface mining support facilities. They felt that: (1) The soil horizons could be removed and utilized elsewhere in the permit area, whereas this is not possible with underground mines because there is little other disturbed area, and (2) this extension of the exemption was illegal because it exceeded the limited exemption suggested by the District Court.

OSM has evaluated the criteria for determining when a surface facility associated with an underground mine should be exempted and has concluded that the criteria apply equally well to such facilities associated with surface mines. Surface mines often use the same types of facilities as underground mines and for comparable periods of time. OSM has decided, therefore, to extend the exemption to surface mines, not just because of the Court order but because a reasonable construction of the prime farmland sections of the Act does not require that they be applied to "areas" where their special protections would be to no avail. The commenter also objected that such an exemption was not needed for surface mine support facilities because they are not actively used over an extended period of time. The commenter has misconstrued the limiting elements of the exemption. All coal preparation plants, support facilities, or roads are not exempted under § 823.11(a); only those that are actively used over extended periods of time and which affect a minimal amount of land are exempted. If these conditions are not met, then the prime farmland rules do apply to the preparation plant, support facility, or road. Furthermore, it is irrelevant to the applicability of soil-reconstruction standards at a particular location that the soil horizons at that location could be used elsewhere.

Two commenters felt that the provisions of Part 823 for prime farmland soil reconstruction, revegetation, and restoration of soil productivity should apply to "areas to be mined" as stated in Section 510(d)(1) of the Act or areas to be "mined and reclaimed" as stated in Section 515(b)(7) of the Act. One of these commenters would have liked to exclude underground mining activities and surface facilities and surface mining activities that do not involve drilling, blasting, or mining unless expressly indicated or required by the regulatory authority in a permit. Another commenter wished to ensure that Part 823 does apply where mining will result in the removal of overburden. OSM reasserts its long-standing position that Part 823 applies to all surface coal mining operations on prime farmland, including surface impacts incident to underground mining, except for those situations set forth in § 823.11. Even if an operation would qualify for an exemption under § 823.11, the permit-application requirements of § 785.17 and the general bond-release requirements of Subschapter J apply. See *In re: Permanent Surface Mining Regulation Litigation, supra*, at 3 N.4.

OSM specifically requested comment on the proposed prime framland rules with respect to the type of support facilities which should be exempt, the duration of their use, and the maximum size of the land area that could be affected. OSM received more than 25 comments regarding this request.

Many commenters suggested that one or more of the following be included in the definition of support facilities: Air shafts, adits, bath houses, battery storage and recharge sheds, coal storage areas (clean and raw coal), disposal and storage areas for waste, equipment storage areas, fan sites, garage areas, hoist buildings, loading docks, office buildings, access roads, main haul roads, water treatment plants, parking lots, power substations, preparation plants, refuse sites, repair sheds, shafts, shop areas, shipping areas, processing and loading facilities, supply yards, tipples, and minor facilities.

Two commenters felt that such an exemption is appropriate for life-of-the-mine support facilities, including roads, because these facilities disturb a minimal amount of land and there is no other area to which the disturbed soil horizons can be transferred. Another commenter suggested that long-term as well as secondary support facilities be included in the exemption. Another commenter felt that only minor support facilities should be exempted and that the area disturbed by these minor facilities should be accommodated and assigned a crop productivity index to be compared to the crop-productivity index of the entire area.

The term "support facilities" is defined in proposed § 701.5 (47 FR 27693, June 25, 1982) to mean those facilities resulting from, or incident to, surface coal mining operations. This term and the terms "coal preparation plants" and "roads" describe those surface facilities which are exempted under § 823.11(a) from the special prime farmland performance standards. The term "coal preparation plant" will be defined in § 701.5 rather than "coal processing plant." It will mean a facility where coal is processed to separate coal from its impurities. In its May 16, 1980, opinion, the Court included coal processing plants in the same category as support facilities. *Id* at p. 2. The two definitions in § 701.5 include nonexclusive lists of facilities that may qualify. Such facilities are exempted only if they affect a minimal amount of land and are actively used over an extended period of time. Facilities such as coal and waste storage areas, tipples, and processing facilities may be considered support facilities but may not be exempt under § 823.11(a) if they are used for a short period of time or cover a large area. The determination of these limits has been left to the regulatory authority, which can better evaluate these time and area factors on the basis of local conditions.

OSM has added roads to the exemption because the District Court referred to roads as deserving treatment similar to support facilities. Since the definition of support facilities in § 701.5 does not include roads, they must be listed separately in the rule. To be exempted, roads must meet the same conditions as support facilities.

OSM does not believe that a crop-productivity index is appropriate for defining the class of exempt facilities, because the suggested method is too cumbersome to be an effective national

rule. Regulatory authorities may choose to use such an index to determine whether a particular facility affects a minimal amount of prime farmland.

Two commenters suggested that the duration of active use to qualify for this exemption should be 10 or more years. One of these commenters added that long-term support facilities could easily be in use for this period of time. The District Court ruled that OSM's rules were arbitrary where they commanded operators to segregate the topsoil and the underlying soil horizons for 20 to 40 years in situations where reclamation will affect a minimal amount of land. OSM recognizes that many different kinds of support facilities are utilized regionally over differing lengths of time, depending upon mining methods. The regulatory authority should use its discretion in selecting the duration of time for actively used support facilities to qualify for this exemption, keeping in mind the context in which the court created the exemption.

Many commenters asked for clarification of the phrase "minimal amount of land." It was suggested variously that 2 acres, 5 acres, and 20 acres or less be the size exempted. Another commenter felt that the aggregate productive potential of prime farmland in the permit area should not be reduced by more than 2 percent.

One commenter felt that a minimal amount of prime farmland for siting and construction of support facilities should be exempt, whereas another commenter felt that the size of the area to be exempted should be determined by the regulatory authority using such factors as: (1) The practicality of locating the facilities in areas other than prime farmland, (2) the nature of the facilities, (3) the extent to which the operator's plans minimize the use of prime farmland, and (4) the impact on surrounding prime farmland.

Another commenter reported that the ratio of the area mined to the area of surface facilities for three large underground mines in Illinois varied between 33 to 1 and 44 to 1. Another commenter reported that support facilities and water bodies could take up as much as one third of coal mine sites. No supporting data were provided by either commenter.

As pointed out by these commenters, the acreage used for support facilities could vary considerably between the type of facility under consideration, location, and mining method utilized. For example, a comprehensive review of Illinois lands affected by underground coal mining was published in 1977 (Nawrot and others, 1977). Disturbance from past underground coal mining activity totaling 6,955.9 acres was present at 700 abandoned underground coal mine sites in 55 Illinois counties. Affected acreage included gob, slurry, tipple, water impoundments, and offsite affected areas and was unequally distributed among the 55 counties, depending upon the size and kind of mining operation. Eleven counties accounted for 80 percent of the affected acreage, with an average of 21.4 acres for 263 mine sites. In contrast, 44 counties accounted for 19.2 percent of the affected acreage, with an average of 3.0 disturbed acres for 437 mine sites.

Because site locations, mining methods, and kinds of support facilities are highly variable, OSM believes that the regulatory authority should establish the maximum area which may be exempted. The factors suggested by commenters should be helpful in making the required determinations. If in practice the exemption provided by § 823.11(a) leads to abuse or is inconsistently applied by different States, OSM will provide further guidance.

Final § 823.11(b) provides an exemption from Part 823 where water bodies have been approved as an alternative postmining land use by the regulatory authority. These water bodies must meet the requirements for construction of permanent and temporary impoundments of §§ 816.49 and 817.49 of this chapter and must be designed and constructed to minimize the loss of prime farmland.

Three commenters were opposed to the exemption for water bodies as an alternative land use after mining. They felt that this exemption was in direct conflict with § 785.17(e)(1), which requires that the postmining land use be cropland. One commenter claimed that exempting approved water bodies from the prime farmland performance standards would violate the Act. The commenter relied on the statement by the U.S. Supreme Court that "Congress presumably concluded that allowing variances from the prime farmland provisions would undermine the effort to preserve the productivity of such lands." *Hodel v. Indiana*, 101 S. Ct. 2376, 2387 (1981). The commenter believed that this statement shows that the Supreme Court determined that Congress intended that there be no variances from the prime farmland restoration standards of the Act.

OSM remains unconvinced that the *Hodel* opinion is dispositive of the issue. The Court held that the plantiffs had not clearly shown that the prime farmland provisions were not rationally related to a legitimate governmental purpose. *Id.* at 2386. The statement quoted by the commenter was not made in the context of a challenge to a narrowly prescribed variance established by OSM under a related statutory provision. It was not essential to the holding that the prime farmland provisions were not unconstitutional on their face.

As noted by the commenter, the assertion that no variances from the prime farmland standards are allowed is not precisely correct. For example, the U.S. District Court for the District of Columbia has held that there should be an exception in the rules for certain surface facilities. *In Re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144, (D.D.C. May 16, 1980) at 3. By implication there must also be an implied exception to the standards of the Act for such support facilities.

The prime farmland provisions of the Act are not completely independent of the other performance standards of the Act. In fact, all of the other performance standards apply to prime farmland except the general topsoil and revegetation standards, which are replaced by the more specific prime farmland standards. Among these other performance standards which apply to prime farmland is Section 515(b)(8) of the Act, which allows the operator to create permanent impoundments if certain standards are met. The so-called exemption to the prime farmland soil-reconstruction standards is really just a recognition that if the impoundment performance standards are met, then there is no need to reconstruct the soil on the area which will be inundated. OSM has added the requirement that the regulatory authority determine that any water body approved must be designed and constructed to minimize loss of prime farmland to ensure that construction of such water bodies does not become merely a means to avoid application of the prime farmland standards.

Final § 823.11(c) sets forth prime farmland exemptions based upon the "historical use" clause and the "grandfather" clause of § 785.17(a). Four commenters supported the establishment of a cutoff date for grandfathered prime farmlands. No comments were received relative to the proposed language of this section, and the proposed rule has been adopted with minor change.

On July 30, 1982, OSM adopted an interim final rule establishing April 3, 1983, as the termination date for all so-called "grandfather" exemptions to the prime farmland performance standards. 47 FR 32939, July 30, 1982. On September 10, 1982, the U.S. District Court for the District of Columbia issued an order in

Peabody Coal Company et al. v. Watt, Civ. Nos. 81-0645, 81-0693, 81-2875 and 81-0708, declaring the grandfather cutoff date rule to be unlawful and void and enjoining the Secretary from implementing the rule. (See 47 FR 44116, October 6, 1982.) In compliance with that order and the Memorandum Opinion filed by the Court on December 3, 1982, OSM has deleted the grandfather cutoff date at § 716.7(a)(2) of the initial program rules and § 785.17(a)(5) of the permanent program rules.

H. Section 832.12 Soil Removal and Stockpiling

Final § 823.12 has been reorganized from the proposed rule, a new paragraph (a) has been added, and the other paragraphs have been redesignated.

Final § 823.12(a) requires prime farmland soils to be removed from the areas to be disturbed before drilling, blasting, or mining.

Two commenters suggested that the introductory paragraph of § 823.12 point out that prime farmland soils must be removed only where overburden is excavated for the mining of coal. One of these commenters referenced a previous OSM brief which stated that the Part 823 soil-removal requirements applied only to areas to be affected by operations that involve removal of the soil horizons. This commenter stated that unless this change is made, the rule would require removal of soil horizons from unmined lands within the permit area. OSM has clarified the final rule by addition of new Paragraph (a) which requires that soil be removed from all disturbed areas. In this respect, the prime farmland rules are no different from the general topsoil rules, under which the topsoil must be removed from areas to be disturbed.

Final § 823.12(b) references the requirements of § 823.14(b) in determining the depth of soil and soil materials to be used and stored for later soil reconstruction.

Final § 823.12(c)(1) requires the removal of the topsoil or substitute material and, if not utilized immediately, the stockpiling of this soil separately from spoil and other excavated materials including the other soil horizons.

The proposal used the phrase "entire A horizon" rather than the word "topsoil." The Illinois Department of Mines and Minerals suggested that OSM modify its use of soil horizon terms to conform to the new classification established by the SCS. The original definition of topsoil in § 701.5 included the A horizon only. The A horizon contained a number of subclassifications including the A1 and A2 subhorizons. The use of the term "A horizon" in Section 515(b)(7) of the Act encompasses both the A1 and A2 subhorizons. Recently, the SCS has redesignated the A2 subhorizon as a separate master horizon identified as the E horizon. Thus, to ensure consistency between the two agencies, OSM will revise the topsoil definition to specifically include both the A and E horizons, when the final topsoil rules are published. To avoid confusion as to which horizons should be removed and stored separately, OSM has changed all references in these prime farmland rules from the term "A horizon" to the word "topsoil" to clarify that those soil materials which Congress intended to be removed as the A horizon will continue to be removed, stored, and replaced as the surface soil layer on prime farmland. This change in terminology has no substantive effect.

OSM proposed to allow use of substitute soil materials if such materials would "create a final soil having an equal or greater productive capacity than that which existed prior to mining."

One commenter supported the wording "equal or greater productive capacity." Another commenter suggested that the rule limit the use of substitute material to that which will have a "greater productive capacity" in keeping with the statutory language of Section 515(b)(7)(A) of the Act. OSM has accepted this comment and has revised the final rule accordingly.

Final § 823.12(c)(2) requires the removal of the B or C horizons or other suitable soil material. If not utilized immediately, this material must be stockpiled separately from spoil and other excavated materials, including the topsoil. Combinations of such materials are allowed where they have been shown to be equally or more favorable for plant growth then the B horizon.

One commenter requested changing the proposed reference to "B and C" horizons to "B or C" horizon to conform to Section 515(b)(7)(B) of the Act, which requires that the operator "segregate the B horizon of the natural soil, or underlying C horizons * * *." OSM agrees that the suggested language is consistent with the Act, and the final rule reflects this change. Another commenter stated that a mix of B and C soil horizons should not be allowed until actual proof is provided that the mix will produce equal or greater yields. A second commenter pointed out that mixing of B and C soil horizons is common practice in the State of Illinois, yet there is no verification that the mixed soil horizons will achieve equal or greater productivity. Another commenter reported crop yields of 129 bushels of corn per acre on a 100-acre experimental plot in Illinois through the mixing of the B and C soil horizons. Another commenter suggested regulatory language that quoted Section 515(b)(7)(B) of the Act. A final commenter supported the proposed rule and stated it would be less burdensome in actual practice and more beneficial to the environment of a greater productive capacity can be proven with soil-horizon mixing. OSM and SCS are aware of soil-mixing studies in Illinois which are showing promising results. (McSweeney and others, 1981; Fehrenbacher and others, 1982; Jansen, 1982). The final rule adopts language from Section 515(b)(7)(B) of the Act and allows mixing of soil materials where the combinations have been shown to be equally or more favorable for plant growth than the B horizon.

Final § 823.12(d) requires that soil stockpiles be placed within the permit area where they will not be disturbed or subject to excessive erosion. When stockpiles are left in place for more than 30 days, the general topsoil-storage performance standards of §§ 816.22 or 817.22 of this chapter apply. No comments were received on proposed § 823.12(c) (which is the corresponding provision of the proposed rule), and the language of final § 823.12(d) is essentially the same as proposed.

I. Section 823.14 Soil Replacement

Final § 823.14(a) requires that the SCS establish soil-reconstruction specifications within each State on the basis of standards of the NCSS. These specifications must include, at a minimum, physical and chemical characteristics of reconstructed soils, soil descriptions containing soil-horizon depths, soil densities, soil pH, and any other specifications set by the SCS. These specifications must be sufficient to create a final soil capable of achieving yields equal to or higher than those of nonmined prime farmland in the surrounding area.

One commenter asked OSM to encourage the Secretary of Agriculture to publish specifications for prime farmland soil reconstruction in the **Federal Register**. OSM has recommended to the SCS that they publish these specifications for public review.

One commenter wanted to include provisions for draining ponded water within 24 hours after a maximum rainfall event of 10-year frequency. Another commenter proposed a new paragraph that would provide detailed

requirements that the operator restore the following soil parameters to premining conditions: density, texture, porosity, permeability, pH, exchange capacity, and water-holding capacity. This commenter stated that such standards were necessary if OSM intended to remove the moist-bulk-density standard. OSM and SCS believe that, where appopriate, specifications for the listed parameters should be part of the soil-reconstruction specifications established within each State by the SCS and the regulatory authority. Thus, they need not be part of this rule. The same commenter requested OSM to spell out more closely how the soil-reconstruction standards would be applied in practice, in lieu of the bulk-density standard. This commenter pointed out that where soil-horizon replacement is practiced in soil reconstruction, the standards can be fairly easily applied since the postmining soil should be similar to the premining soil. However, where mixing of profiles is done in soil reconstruction, OSM should spell out more specifically how the premining soil characteristics will be used as a standard for soil reconstruction.

OSM and SCS agree that where soil mixing is appoved, the quantity of various soil materials and methods utilized in mixing is important and must be spelled out in detail in the reclamation plan so that equal or higher levels of productivity may be achieved. However, the specific details of utilizing substitute materials and mixing of soil materials must be evaluated on each site by the regulatory authority and the SCS. National rules attempting to set the means for achieving the performance standard would serve no useful purpose because of the diversity of soils and reconstruction methods that may be utilized.

One commenter wanted to make sure that the regulatory authority has input into the formulation of these specifications so that they address the concerns of the regulatory authority. Section 515(b)(7) of the Act requires that the Secretary of Agriculture develop specifications for removal, storage, replacement, and reconstruction of prime farmland soils. The SCS, acting for the Secretary of Agriculture, recognizes that close coordination with the regulatory authority is necessary in order that a sound prime farmland restoration program is developed. The SCS is taking positive action within each State to assure that the regulatory authority has ample input into the soil-reconstruction specifications.

Another commenter pointed out that soil-description data should not be referenced as "standards," stating that the parameters listed are useful guidelines for assuring soil quality. This commenter also stated that postimining soil will never be precisely the same immediatley following mining as it was before mining and that the optimum conditions for postmining soils are best determined on a site-specific basis. OSM and SCS agree that the use of the word "standard" in this instance is not appropriate and have changed the word "standard" to "specification" for soil reconstruction to be consistent with Section 515(b)(7) of the Act. Also, OSM and SCS are aware that the postmining soil condition will never be precisely the same as the premining soil condition. However, this should not prevent the operator from achieving equivalent levels of yield as nonmined prime farmland in the surrounding area, as required by Section 519(c)(2) of the Act.

One commenter did not believe that studies show consistent relationships between soil density and productivity, and thus, thought soil density should not be used as a soil-reconstruction criterion. This commenter felt that a rigid set of standards for various soil parameters will not provide for the necessary trade-offs among physical and chemical soil properties when evaluating a soil-reconstruction plan. For these reasons, this commenter suggested that premining soil parameters be informational material for the regulatory authority to use in evaluating prime farmland reconstruction plans and for evaluation of soil reconstruction in the field.

OSM and SCS do not agree with this commenter with respect to his evaluation of consistent relationships between soil density and productivity. One established consistent relationship between soil density and productivity of the soil is that, given like soils, soil productivity decreases as soil density increases. (Guernsey and others, 1979; Smith, 1981) OSM and SCS agree, however, that a rigid set of national specifications for soil parameters will not provide for the necessary trade-offs among physical and chemical soil properties. This is why OSM and SCS have required, in § 785.17(c)(1)(ii), a "range of soil densities" to be reported in the soil survey.

Under § 823.14(a), the SCS will establish the soil-reconstruction specifications within each State to be consistent with the standards of the NCSS. These premining prime farmland soil specifications are to be used before issuing a permit in evaluating the technological capability of the operator to return prime farmland soils to their premining capability and for evaluation of prime farmland soil reconstruction after mining has taken place for release of the performance bond under Subchapter J.

Another commenter wanted to delete references to "or greater productive capacity" in proposed Part 823 because: (1) The operator should not be required to reclaim the land to a higher productive capacity and (2) returning the land to equal productivity meets the intent of the Act.

Section 510(d)(1) of the Act requires that the regulatory authority make a finding prior to issuing a permit to mine prime farmland that: (1) The operator has the technological capability to restore the mined land to levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area and (2) he or she can meet the soil-reconstruction specifications of Section 515(b)(7) of the Act. Because the finding under Section 510(d)(1) of the Act ties the achievement of equal or higher levels of yield to meeting the soil-reconstruction specifications, achievement of such yields is the goal of § 823.14(a). However, operators are not required to achieve higher levels of yield because the standard is equal *or* higher levels of yield. However, for prime farmland topsoil-substitute materials to be approved under § 823.12(c)(1), the operator must show that the topsoil substitute materials will have a greater productive capacity.

Final § 823.14(b) requires, in general, that the depth of reconstructed prime farmland soils be 48 inches. Specifications for greater or lesser depths will be provided to the regulatory authority by the SCS based upon the soil survey and established crop yields to assure the restoration of soil productivity. The reference in the proposed rule to specification of soil-horizon depths by the SCS to the regulatory authority has been removed from this paragraph and placed in new §§ 823.4(a) and 785.17(d)(2) as a general requirement of soil-reconstruction specifications.

Three commenters expressed concern with respect to the root-inhibiting layers found in prime farmland soils. These commenters felt that where root-inhibiting layers are found at less than 48 inches of soil depth, a 48-inch depth of soil material should be replaced regardless, because: (1) The degree of inhibition of roots and the resulting effect on crop productivity is highly variable, (2) the disturbance of prime

farmland soils in the mining and reclamation process requires that a greater depth of soil be replaced, (3) the literature does not support reconstructed soil depths of less than 48 inches, (4) unless a soil layer actually prevents root penetration, there is no justification to limit the reconstructed depth to the top of that restrictive layer, and (5) the use of the proposed language will result in sharply different reclamation work among the States.

OSM and SCS recognize the fact that root-inhibiting layers exist in soils and are highly variable with respect to their physical and chemical makeup and their effect on crop yields. Because of this high degree of variability, OSM and SCS agree that the SCS within each State must determine the soil-horizon depths to be utilized in prime farmland soil reconstruction. In this manner, site-specific variables can best be addressed. Also, coordination across State lines is currently done with SCS soil surveys, thus reducing drastic differences in soil-reconstruction specifications between States. OSM and SCS have further clarified the concept of root-inhibiting layers by specifying in the rule that soil horizons which restrict or prevent roots from further penetration and have little or no beneficial effect on soil productive capacity will be considered inhibiting. In keeping with the preamble of the proposed rule (47 FR 19079, May 3, 1982), the depth requirement of this section is a general requirement, to be delineated more specifically by the SCS on the basis of the soil survey.

OSM and SCS agree that a depth of at least 48 inches of soil is normally necessary to assure that the required soil productivity is restored; however, root-inhibiting soil layers do occur in a few prime farmland soils at lesser depths and must be recognized. Where these restrictive soil layers exist at depths of less than 48 inches, the process of excavating and stockpiling horizons and reconstructing the soils can create a soil that has better characteristics because it lacks these natural restrictive layers.

Another commenter wanted "48 inches" changed to "40 inches" to conform to the prime farmland definition in 7 CFR 657.5. The 40-inch depth of prime farmland soil referred to in 7 CFR 657.5 is the basic depth that SCS uses to evaluate the physical and chemical properties of the soil to determine if the soil qualifies as prime farmland. The 48-inch depth of soil specified in these rules reflects the depth of soil needed to sustain high crop yields found for prime farmland soils and also reflects soil-reconstruction experiences of two major agricultural States, Illinois and North Dakota (see their State programs, which are listed under "Reference Materials") which have many years of experience in reconstructing mined agricultural lands. Researchers in Iowa found that a depth of at least 48 inches is required to attain county average yield levels. (Drake and Ririe, 1981) Other commenters supported the 48-inch standard and noted that: (1) At least 48 inches is required for adequate water retention, (2) at least that much soil is needed to assure an acceptable soil depth after erosion losses, and (3) 48 inches of soil is needed to assure that operators achieve the required restoration of soil productivity in a reasonably prompt manner.

Two commenters objected to the proposal to delete the scarification requirement of previous § 823.14(b). They felt that: (1) It has proven beneficial in the past to provide a physical transition between soil horizons in order to promote root penetration and water retention and percolation, and (2) scarification is just one method used to reduce compaction and it would be appropriate to allow other methods of loosening the soil. Another commenter supported the proposed deletion because the rule was unnecessary and burdensome.

OSM and SCS recognize that confusion exists with respect to the distinction between scarification of spoil material before replacement of soils for root growth and soil tillage to alleviate compaction. Previous § 823.14(b) required that scarification take place in a manner consistent with §§ 816.102(e) and 817.102(e) before any soil material was placed on graded spoil. This requirement was intended specifically to minimize erosion and topsoil instability. Previous § 823.14(c) required the placement of soils in a manner that avoided excessive compaction. One method of accomplishing this is soil tillage. This requirement applied to prime farmland soils placed upon scarified spoil materials. Under these final rules, the operator must still replace prime farmland soils with proper compaction, as determined by the SCS from the soil survey. However, the requirement for scarification of the interface between spoil and prime farmland soils has been eliminated, because slippage control is not always necessary on relatively level prime farmland.

Final § 823.14(c) requires that the operator replace and regrade the soil horizons with proper compaction and uniform depth. Tillage can continue to be performed to alleviate compacted soil conditions. This final rule is unchanged from the proposed rule.

One commenter stated that in § 823.14(c) OSM has presented a common-sense approach to the compaction problem. Two other commenters felt that the use of bulk density in measuring soil compaction should not be deleted from the rules. One commenter felt that "proper compaction" was not well enough defined. Another commenter noted that: (1) Compaction had a detrimental physical effect on vegetative growth and crop yields and (2) the single most useful and reliable quantitative measure of compaction is bulk density. The commenter added that bulk density should be measured for the entire depth to which plant roots extend and that there is no optimal bulk density for all soils, because of the variability of silt, sand, clay, and organic matter. For these reasons, this commenter felt that it is critical that bulk density be measured before mining.

OSM and SCS agree that compaction of soil horizons does decrease vegetative growth and crop yields (Guernsey and others, 1979, pp. 69–79) and that there is no optimal bulk density for all soils because of the differences in the makeup of soils (Smith, 1981). For these reasons, soil density has been retained as a soil-reconstruction specification to be specified by the SCS within each State. The SCS within each State will determine what constitutes "proper compaction" and whether or not bulk density will be the measure of soil density.

Final § 823.14(d) requires that the operator replace the B horizon, C horizon, or other suitable material which must be removed to the thickness which meets the minimum depth requirements to restore soil productivity. Comments received relative to B or C soil-horizon mixing are answered earlier in this preamble in the discussion of § 823.12(c)(2). Final § 823.14(d) is unchanged from the proposed rule.

Final § 823.14(e) requires that the operator replace the topsoil materials to a thickness equal to, or exceeding that of, the original surface soil layer. This final rule is unchanged from the proposed rule.

One commenter wanted to change the term "equal or exceed" to the term "not less than." This commenter stated that the operator should not be required to exceed the thickness of the original surface. OSM agrees with this comment but is not changing the language because the phrase "equal or exceed"

does not require the final surface soil layer to exceed the original thickness.

J. Section 823.15 Revegetation and Restoration of Soil Productivity

Final § 823.15 provides special ground-cover and cropping requirements which apply to surface coal mining operations on prime farmland. The heading of previous § 823.15 has been changed to include "restoration of soil productivity," which more accurately identifies the content of the section. The introductory paragraph of the previous section has not been adopted because the requirements in the remainder of the section are self-explanatory.

On commenter wanted a sentence added clearly stating that the burden of proof is on the operator to prove that the land has been restored.

Section 823.15 applies to all surface coal mining and reclamation operations on prime farmland, except for that exempted under § 823.11. It is the operator's responsibility to meet all of the applicable performance standards in Chapter VII, including the ground-cover and cropping requirements. In addition, the operator cannot obtain the complete release of the performance bond until he or she demonstrates compliance with § 823.15 and the corresponding requirement in Subchapter J.

Final § 823.15(a) requires that the soil surface be stabilized with a vegetative cover or other means to control soil loss through erosion following soil replacement. This final rule is unchanged from the proposed rule.

One commenter wanted a soil-erosion control system added. Another commenter suggested adding a sentence requiring the regulatory authority to approve erosion-control plans before final grading. Further specificity in this regard is not necessary. Section 823.15(a) provides a performance standard that requires erosion control. In addition, the reconstruction plan required under § 785.17(c)(2) adequately covers erosion control and provides the regulatory authority and operator with a planning tool for alleviating potential problems.

Final § 823.15(b) imposes a general requirement that prime farmland soil productivity be restored. It contains eight paragraphs specifying how the operator must comply with that requirement, including an average-yield requirement. These eight paragraphs contain the requirements that were proposed in § 823.15 (b) and (c).

Three commenters agreed that crops should be grown to prove restoration of soil productivity and stated that this is the only way to meet the requirements of the Act. Several commenters quoted the District Court's opinion of February 26, 1980, which held that the Act did not require operators to actually farm the land. *In re: Permanent Surface Mining Regulation Litigation*, Mem. opin. at 59, (D.D.C. Feb. 26, 1980). Two of these commenters wanted to change the language so that cropping is an optional method of showing that the restored land has been returned to the capability of achieving levels of yield equivalent to those of surrounding unmined land within a reasonable time. Three of these commenters proposed the use of a soil survey as acceptable for bond-release purposes. One commenter asked that ground cover or cropping be deleted because such a requirement was too narrow a standard on the basis of the Court's opinion.

Although the District Court's decision of February 26, 1980, appears to prohibit OSM from requiring that actual crop yields be used as the means for determining the success of soil reconstruction, the May 16, 1980, decision appears to support such a requirement. See *In re: Permanent Surface Mining Regulation Litigation, Mem. opin.* at 5–6, (D.D.C. May 16, 1980). In light of these apparent conflicting decisions, OSM has adopted the guidance provided in the later May 16, 1980, decision. Therefore, § 823.15(b) requires that crops be grown to demonstrate the restoration of soil productivity. OSM has determined that cropping is the only method currently available to test the restoration of the productivity of prime farmland soils because insufficient research has been published that demonstrates the reliability of any other method.

One commenter was concerned that the proposed rule increased the likelihood that inadequate soil-reconstruction practices will be used and therefore will jeopardize the successful restoration of prime farmland productivity. Another commenter expressed concern that reference areas can be easily mismanaged so that the lowest amount of yield is realized on the reference areas and that management levels and crop-yield data can easily be manipulated so that the crop record used will be substantially lowered. The regulatory authority and the SCS will be able to detect inadequate soil-reconstruction practices and prevent any mismanagement and manipulation of yields. Moreover, the performance standards of § 823.15 are sufficiently detailed and explicit to ensure restoration of premining productivity. In addition, the requirements to demonstrate soil productivity and the criteria for bond release also ensure successful restoration.

Another commenter pointed out that mining and reclamation methods which would optimize restoration are still to be developed. This commenter's understanding was that an agronomist at the University of Illinois has predicted a dim future for crop productivity on surface mined lands where B and C horizon mixing is allowed.

The commenter's conclusion about yields of reclaimed lands where B and C soil horizons are mixed cannot be fully supported by the agronomist's data. These data show that yields for some of the reconstructed soil plots are nearly the same as for similar soils in adjoining areas that have not been mined. (Jansen, 1982.) Of course, § 823.12(c)(2) does not allow the mixing of the B and C horizons unless the operator can demonstrate that such a mixture will be equally or more favorable for plant growth than the B horizon. The referenced studies would certainly be relevant to the evaluation of any proposal to mix horizons, as would any additional studies or information submitted by the operator.

Final § 823.15(b)(1) requires that the period for measuring soil productivity of the reconstructed soil that is necessary for bond release be initiated within 10 years after completion of soil replacement.

One commenter asked that a time limit of 18 months be established between final grading and soil replacement so that the operator will perform soil replacement concurrently with reclamation. OSM does not agree with this proposed change. The purpose of § 823.15(b)(1) is to establish the latest date by which proof of soil productivity must begin. A time limit to assure timely reclamation is not needed because the soil-reconstruction plan required under § 785.17(c)(2) must be approved by the regulatory authority, and unreasonable delays in such a plan should not be approved. In addition, under §§ 816.100 and 817.100, all operators are required to proceed with reclamation efforts, including topsoil replacement, as contemporaneously as practicable with mining.

One commenter asked what would happen if, after 10 years had passed, the regulatory authority found that the soil productivity was not restored for a specific permit area.

Under § 823.15(b)(1) the period for measuring soil productivity is to begin within 10 years. If a crop-rotation sequence is followed, it could be as much as 15 or 16 years after soil replacement before the required minimum 3 crop-year measurement period is completed. If at that time the

operator has failed to achieve equivalent or higher yields, alternative reclamation approaches could be used by the operator or, in some situations, the remaining portion of the bond could be forfeited to ensure reclamation completion.

Final § 823.15(b)(2) requires that for proof of soil productivity, a reference crop be grown on a representative sample or on all of the mined and reclaimed prime farmland area. Also, the measurement of soil productivity for bond release must utilize a statistically valid sampling technique at a 90-percent statistical confidence level as approved by the regulatory authority in consultation with the Soil Conservation Service.

The proposed rule would have required that crops be grown on any portion of the disturbed area that is prime farmland historically used as cropland. Eight commenters were concerned about the meaning of "any portion of" with respect to disturbed prime farmland historically used as cropland. Four commenters suggested that the use of sound statistical sampling methods be required for measuring the success of soil productivity.

The phrase "any portion of" is not being adopted. OSM and SCS have agreed that the amount of prime farmland area used to grow crops for proof of soil productivity could include the entire mined and reclaimed prime farmland area or a portion of the mined and reclaimed prime farmland area which would result in a statistically valid sample at a 90-percent confidence level. Because of the wide variation of acceptable crop sampling techniques which are utilized over coal-producing areas, OSM and SCS have left the selection of these statistically valid sampling techniques to the regulatory authority in consultation with the SCS. Also, this requirement for a statistically valid sample is needed to ensure that proof of successful reclamation is judged uniformly and is consistent with the general revegetation performance standards of §§ 816.116 and 817.116.

One commenter was concerned that the proposed rule will allow a lesser standard to be used to determine productivity because he feels it will not require test yields on a site-specific basis. OSM points out that the requirements of this section specify that site-specific tests of yield utilize a representative sample of the disturbed area or the entire disturbed area.

Final § 823.15(b)(3) specifies that the measurement period for determining the average annual crop production (yield) for proving soil productivity for bond release is a minimum of 3 crop years. The substance of this final rule is unchanged from the proposed rule.

Three commenters supported 3 nonconsecutive crop years for the 3-year period for proving soil productivity. One commenter was concerned about the meaning of "average annual crop production" and noted that this period of time is verb short and thtat yields during such short periods will fluctuate widely. Under final § 823.15(b)(3), the 3 crop years need not necessarily be consecutive years. They could be 3 crop years in a particular crop-rotation sequence. "Average annual crop production" means the average yield of the specified crop during the 3 crop years used for the test.

OSM and SCS realize that this time period is short and that yields could fluctuate widely. However, the reference yields on nonmined prime farmland in the surrounding area should also fluctuate accordingly, thus allowing a comparison of yields. Furthermore, possible adjustments based on other factors described below will allow meaningful comparisons of yields.

Section 823.15(b)(4) requires that the level of management utilized during the specified measurement period be the same as that used on nonmined prime farmland in the surrounding prime farmland area. OSM has imposed this requirement to be consistent with Section 519(c)(2) of the Act.

One commenter was concerned that this section does not adequately define standards for levels of management. The regulatory language that has been adopted implements and is consistent with Section 519(c)(2) of the Act, which requires management levels to be the same as those used on nonmined prime farmland in the surrounding area. Therefore, no additional language is needed. Another commenter wanted the level of management to be discretionary with the operator. Because Section 519(c)(2) requires equivalent management practices as a condition of bond release, use of the permissive "may" as suggested rather than the mandatory "shall" would be inconsistent with the Act.

Final § 823.15(b)(5) requires that proof of soil productivity for bond release be based upon achieving levels of yield equal to, or higher than, those of the reference crop established for the same period. This section has been changed from the proposed rule to remove the obsolete term "soil type." In its place, the phrase "similar texture or slope phase of the soil series" is used. This is not a substantive change but more accurately describes the reference soils.

One commenter wanted to encourage States to adopt their own yield-measurement systems. OSM points out that this is the intent of the final rule, which specifies that the State regulatory authority in consultation with the SCS in each State will adopt yield-measurement systems.

Another commenter wanted clarification that averaging of different crop yields is not allowed. The final language precludes averaging the yields of different kinds of crops, by requiring comparison to the reference crop.

Two commenters pointed out that in some situations it may be impossible to find the same crop growing on the same soil type within close proximity for the purpose of comparison. One of these commenters felt that it would make more practical and technical sense to use a similar soil type for the sake of comparison. Another commenter requested updating the obsolete term "soil type." OSM agrees and the final rule reflects these changes.

Final § 823.15(b)(6) requires that the reference crop selected for proof of soil productivity be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are selected as the reference crop and two or more row crops are produced in the local area, the reference crop should be the row crop requiring the greatest rooting depth. This section has been changed from the previous rules to require at least one deep-rooted crop to be used as a reference crop in the 3-year period for proving soil productivity.

Several commenters wanted to delete the last sentence of this paragraph in order to allow crop rotations with alfalfa or other hay crops. OSM and SCS have determined that this sentence does not preclude the use of hay crops in rotation with row crops during the period for proving soil productivity. Also, OSM and SCS note that hay crops are included in the definition of cropland in § 701.5. Use of perennial plants for hay is within the regulatory authority's discretion if those kinds of crops are among the crops most commonly produced on surrounding prime farmland. One commenter wanted to delete this section, because there is sufficient authority in proposed § 823.15(c)(2) to require the demonstration of productivity using a management system which is at the same level of management used in the surrounding prime farmland areas. OSM and SCS do not agree. This section is needed to specify selection of reference crops. Three commenters supported the proposed rule, but one stated that more

than one reference crop could be used for the 3-year proof period. OSM and SCS agree that more than one reference row crop or hay crop could be used in the 3-year proof period. This would take advantage of existing crop rotations during the test period.

Final § 823.15 (b)(7) and (b)(8), pertaining to the determination of reference-crop yields, were proposed under § 823.15(c)(3) but have been separated and renumbered for clarity.

Final § 823.15(b)(7)(i) provides that current yield records of representative local farms may be utilized as one of the two means of establishing the reference crop yield standard for bond release. The SCS must concur in the use of the standard. OSM and SCS have clarified this paragraph to include only current yield records of farms in the surrounding area.

One commenter wanted the States to have the power to adopt measures which would utilize a site-specific system to measure productivity which reflected actual crop production of similar unmined soils. OSM and SCS believe that § 823.15(b) allows the use of such a system.

Final § 823.15(b)(7)(ii) provides that the average county yields for a crop year recognized by the USDA may be utilized as the other of the two means of establishing the crop-yield standard for bond release. The SCS will adjust these yields to reflect the productivity of individual prime farmland soils.

Thus, under final § 823.15(b)(7) (i) and (ii), the reference crop could be on a reference area of a surrounding area of prime farmland or the reference crop could be a statistical standard generated by the SCS from USDA county averages. OSM and SCS have broadened the USDA sources from which these yield standards may be taken, including average county yields established by sources other than the USDA Statistical Reporting Service (SRS) as proposed. The USDA and SCS remain an integral part of the determination of the reference-crop yield. This change was made on the basis of commenters' expressed concern that other sources of crop-yield data be recognized. Sources of crop data such as State Departments of Agriculture, universities, and all USDA agencies are appropriate for determining reference-crop yields as long as these sources of data are approved by the regulatory authority and adjusted by the SCS to reflect the productivity of individual prime farmland soils.

One commenter asked whether USDA SRS average yields are the same as those of the State Departments of Agriculture. Another commenter wanted to use the formula developed by the Illinois Department of Agriculture. USDA SRS yields are compiled in cooperation with the State Departments of Agriculture and both would be appropriate for use under § 823.15(b)(7). Two commenters objected to adjusted yields, while another commenter wanted the rule to make clear that adjustments to county average yields should take into account differences in yield within prime farmland soils. Section 823.15(b)(7)(i) provides the option to compare yields with similar adjacent lands. If this option is used, adjustments in USDA yields may not be needed. Yield data from surrounding prime farmland soils may not be readily available, and for this reason the option of using adjusted county average yields is provided.

Final § 823.15(b)(8) allows crop yields to be adjusted, with SCS concurrence, for disease, pest, and weather-induced seasonal variations and for specific differences in management practices where the overall management practices of the crops being compared are equivalent. This section has been modified from the proposed rule which would have included only seasonal variations caused by weather. Adjustments in reference yields for disease and pests could be needed to account for unusual conditions in the measurement period that are beyond an operator's control and that skew comparisons.

The allowance in § 823.15(c)(8)(ii) for differences in specific management practices recognizes that there are many individual crop-management variables, any one of which could appreciably change crop yields. Some of these practices include time and depth of planting; time, depth, and kind of tillage or whether tillage is needed at all; pesticide and fertilizer management; irrigation and drainage management; and time of harvest. Although Section 519(c)(2) of the Act requires that bond release for soil productivity be based upon "equivalent management practices," it would be difficult to find, no less compare, reference crops from which every management decision is identical with those for the crop on the reconstructed soil. Moreover, to require the monitoring of every management practice would not be technically sound from a regulatory standpoint because of the number of variables and uncertainties involved and the lack of methods and measures to compare these uncertainties. OSM has decided that the most practical solution is to require reference crops with overall equivalent management practices but to allow yield adjustments, if necessary, to account for differences in specific practices that could appreciably affect yield.

One commenter stated that this section is not needed because county average yields include adjustments for weather. OSM has determined that this section is needed to account for local management alternatives and variations of disease, pests, and weather that may affect an otherwise successful crop year.

Another commenter favored adjustments for disease and pest-induced variations because disease and pest infestations vary in impact and location in the same or similar ways that weather can. This change has been accepted because OSM and SCS agree that these factors potentially can have a large local effect on crop yields. Another commenter wanted "in consultation with the Soil Conservation Service" retained in this section. OSM has determined that this change is appropriate and is requiring SCS concurrence for such adjustments.

K. Reference Materials

Reference materials (on file in OSM's Administrative Record) used to develop these final rules are as follows:

Drake, L. D., and Ririe, G. T., 1981, A low-cost method of reclaiming strip-mined land in Iowa to agriculture: Environmental Geology, Chapter 3, pp. 267–279

Fehrenbacher, D. J., Jansen, I. J., and Fehrenbacher, J. B., 1982, Corn root development in constructed soils on surface-mined land in western Illinois: Soil Science Society of America Journal, Vol. 46, pp. 353–359.

Guernsey, Lee, Mausel, Paul, Oliver, John, and Smith, D. F., 1979, Technical guidance for evaluating crop yields during the premining and reclamation processes, Volume II: Unpublished report, 84 pp.

Jansen, I. J., 1982, unpublished notes.

McSweeney, K., Jansen, I. J., and Dancer, W.S., 1981, Subsurface horizon blending: An alternative strategy to B horizon replacement for the construction of post-mine soils: Soil Science Society of America Journal, Vol. 45, No. 4.

Nawrot, J. R., and others, 1977, Illinois lands affected by underground mining for coal: Cooperative Wildlife Research Laboratory, Southern Illinois University, Carbondale/Illinois Institute for Environmental Quality, pp. 43–56.

Smith, D. F., 1981, Soil compaction, a question of how much: Unpublished OSM report.

State of Illinois, 1982, Permanent regulatory program: **Federal Register**, Vol. 47, No. 105, pp. 23858–23883.

State of North Dakota, 1980, Permanent regulatory program: **Federal**

Register, Vol. 45, No. 242, pp. 82214–82248.

U.S. 95th Congress, 1977, Surface Mining Control and Reclamation Act of 1977: 1st Session, House of Representatives, House Report No. 95–493, Conference Report (to accompany H.R. 2).

U.S. Soil Conservation Service, 1951, Soil survey manual (amended): U.S. Department of Agriculture Handbook 18, 503 pp.

U.S. Soil Conservation Service, 1975, Soil Taxonomy—A basic system of soil clarification for making and interpreting soil surveys (amended): U.S. Department of Agriculture Handbook 436, 754 pp.

U.S. Soil Conservation Service, 1982, National Soils Handbook: U.S. Department of Agriculture, various paginations.

III. 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.*)

The reasons underlying this determination are as follows:

This rule would not have inimical effects on the competitive position, investment or productivity of United States coal operators, or on employment in the coal industry. The Department certifies that this rule would affect a proprtionately small number of operators and the impact would be correspondingly small.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in its "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, DC 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. This rule removes the grandfather exemption cutoff date. Although the April 3, 1983, cutoff date was included in Volume III of the EIS, its removal is analyzed in the EIS text.

2. A number of editorial and minor substantive changes have been made for clarity including the reorganization of §§ 785.17(c)(3), 785.17(d)(4), 823.12, and 823.15. These changes are within the scope of the EIS analysis.

3. This final rule adds coal preparation plants affecting a minimal amount of land to the exemption from Part 823 for "support facilities" in § 823.11(a) that was included in the preferred alternative. The analysis of the exemption in the EIS was premised upon an expansive reading of the term "support facilities" and thus is only slightly affected by the inclusion of coal preparation plants.

4. The final rule clarifies when adjustments of reference crop yields for management variations under § 823.15 will be allowed. This change does not alter the EIS analysis.

Federal Paperwork Reduction Act

The information-collection requirements in § 785.17 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029–0040. OSM has codified the OMB approval under new § 785.10 (47 FR 33683, August 4, 1982) and has received new OMB approval of these information-collection requirements.

The information required by § 785.17 will be used by the regulatory authority to determine whether the applicant can meet the prime farmland performance standards of Part 823. The information required by § 785.17 is mandatory.

Approval of Other Agencies

Section 510(d)(1) of the Act states that, under regulations issued by the Secretary with the concurrence of the Secretary of Agriculture, the regulatory authority shall follow certain procedures in granting permits for surface coal mining operations on prime farmland. The regulations concerning issuance of permits on prime farmland have been developed in consultation with the Secretary of Agriculture in accordance with Section 510(d)(1). By letter dated April 11, 1983, the Secretary of Agriculture, through his authorized representative, Chief, Soil Conservation Service, concurred with the prime farmland provisions of the regulations.

Section 516(a) of the Act states that the Secretary shall promulgate rules and regulations directed toward the surface effects of underground mining activities and requires that such rules and regulations shall not conflict with or supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 or any regulation issued pursuant thereto. The written concurrence of the head of the department which administers the Act is required before final rules may be promulgated. By letter dated April 5, 1983, concurrence has been obtained from the head of the Mine Safety and Health Administration, which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine and Safety Act of 1969.

List of Subjects

30 CFR Part 716

Coal mining, Environmental protection, Surface mining, Underground mining.

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 823

Agriculture, Coal mining, Environmental protection, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 716, 779, 783, 785, and 823 are amended as set forth herein.

Dated: March 30, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 716—SPECIAL PERFORMANCE STANDARDS

§ 716.7 [Amended]

1. In § 716.7, Paragraph (a)(2)(iv) is removed.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 779.27 [Removed]

2. Section 779.27 is removed.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 783.27 [Removed]

3. Section 783.27 is removed.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

§ 785.17 [Amended]

4. In § 785.17, paragraph (a)(5) is removed.

5. In § 785.17, Paragraph (b) is revised; Paragraphs (c) and (d) are redesignated as Paragraphs (d) and (e), respectively; new Paragraph (c) is added; and newly redesignated Paragraphs (d) and (e)(2) are revised to read as follows:

§ 785.17 Prime farmland.

* * * * *

(b) *Application contents: Reconnaissance inspection.*

(1) All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The regulatory authority in consultation with the U.S. Soil Conservation Service shall determine the nature and extent of the required reconnaissance inspection.

(2) If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the applicant shall submit a statement that no prime farmland is present. The statement shall identify the basis upon which such a conclusion was reached.

(3) If the reconnaissance inspection indicates that land within the proposed permit area may be prime farmland historically used for cropland, the applicant shall determine if a soil survey exists for those lands and whether soil mapping units in the permit area have been designated as prime farmland. If no soil survey exists, the applicant shall have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. Soil surveys of the detail used by the U.S. Soil Conservation Service for operational conservation planning shall be used to identify and locate prime farmland soils.

(i) If the soil survey indicates that no prime farmland soils are present within the proposed permit area, paragraph (b)(2) of this section shall apply.

(ii) If the soil survey indicates that prime farmland soils are present within the proposed permit area, paragraph (c) of this section shall apply.

(c) *Application contents: Prime farmland.* All permit applications for areas in which prime farmland has been identified within the proposed permit area shall include the following:

(1) A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 "Soil Taxonomy" (U.S. Soil Conservation Service, 1975) as amended on March 22, 1982 and October 5, 1982, and 18, "Soil Survey Manual" (U.S. Soil Conservation Service, 1951), as amended on December 18, 1979, May 7, 1980, May 9, 1980, September 11, 1980, June 9, 1981, June 29, 1981, November 16, 1982. The U.S. Soil Conservation Service establishes the standards of the National Cooperative Soil Survey and maintains a National Soils Handbook which gives current acceptable procedures for conducting soil surveys. This National Soils Handbook is available for review at area and State SCS offices.

(i) U.S. Department of Agriculture Handbooks 436 and 18 are incorporated by reference as they exist on the date of adoption of this section. Notices of changes made to these publications will be periodically published by OSM in the **Federal Register.** The handbooks are on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C., at each OSM Technical Center and Field Office, and at the central office of the applicable State regulatory authority, if any. Copies of these documents are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock Nos. 001–000–02597–0 and 001–000–00688–6, respectively. In addition, these documents are available for inspection at the national, State, and area offices of the Soil Conservation Service, U.S. Department of Agriculture, and at the **Federal Register** library, 1100 L Street, NW., Washington, D.C. Incorporation by reference provisions were approved by the Director of the **Federal Register** on June 29, 1981.

(ii) The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the U.S. Soil Conservation Service, including, but not limited to, soil-horizon depths, pH, and the range of soil densities for each prime farmland soil unit within the permit area. Other representative soil-profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the State Conservationist, U.S. Soil Conservation Service. The regulatory authority may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil-reconstruction standards of Part 823 of this chapter.

(2) A plan for soil reconstruction, replacement, and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of Part 823 of this chapter.

(3) Scientific data, such as agricultural-school studies, for areas with comparable soils, climate, and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area.

(4) The productivity prior to mining, including the average yield of food, fiber, forage, or wood products obtained under a high level of management.

(d) *Consultation with Secretary of Agriculture:*

(1) The Secretary of Agriculture has responsibilities with respect to prime farmland soils and has assigned the prime farmland responsibilities arising under the Act to the Chief of the U.S. Soil Conservation Service. The U.S. Soil Conservation Service shall carry out consultation and review through the State Conservationist located in each State.

(2) The State Conservationist shall provide to the regulatory authority a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland soil descriptions.

(3) The State Conservationist shall assist the regulatory authority in describing the nature and extent of the reconnaissance inspection required in paragraph (b)(1) of this section.

(4) Before any permit is issued for areas that include prime farmland, the regulatory authority shall consult with the State Conservationist. The State Conservationist shall provide for the review of, and comment on, the proposed method of soil reconstruction in the plan submitted under paragraph (c) of this section. If the State Conservationist considers those methods to be inadequate, he or she shall suggest revisions to the regulatory authority which result in more complete and adequate reconstruction.

(e) * * *

(2) The permit incorporates as specific conditions the contents of the plan submitted under paragraph (c) of this section, after consideration of any revisions to that plan suggested by the

State Conservationist under paragraph (d)(4) of this section;

* * * * *

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

6. Part 823 is revised to read as follows:

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

Sec.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 823.1 Scope and purpose.

This part sets forth special environmental protection performance, reclamation, and design standards for surface coal mining and reclamation operations on prime farmland.

§ 823.4 Responsibilities.

(a) The U.S. Soil Conservation Service within each State shall establish specifications for prime farmland soil removal, storage, replacement, and reconstruction.

(b) The regulatory authority within each State shall use the soil-reconstruction specifications of paragraph (a) of this section to carry out its responsibilities under § 785.17 and Subchapter J of this chapter.

§ 823.11 Applicability.

The requirements of this part shall not apply to—

(a) Coal preparation plants, support facilities, and roads of surface and underground mines that are actively used over extended periods of time and where such uses affect a minimal amount of land. Such uses shall meet the requirements of Part 816 of this chapter for surface mining activities and of Part 817 of this chapter for underground mining activities;

(b) Water bodies that have been approved by the regulatory authority as an alternative postmining land use in accordance with §§ 773.15, 780.23, 784.15, 816.133, and 817.133 of this chapter, as applicable, and where the regulatory authority has determined that the water bodies will be designed and constructed to minimize the loss of prime farmland. Such water bodies shall meet the requirements of §§ 816.49 and 817.49 of this chapter; or

(c) Prime farmland that has been excluded in accordance with § 785.17(a) of this chapter.

§ 823.12 Soil removal and stockpiling.

(a) Prime farmland soils shall be removed from the areas to be disturbed before drilling, blasting, or mining.

(b) The minimum depth of soil and soil materials to be removed and stored for use in the reconstruction of prime farmland shall be sufficient to meet the requirements of § 823.14(b).

(c) Soil removal and stockpiling operations on prime farmland shall be conducted to—

(1) Separately remove the topsoil, or remove other suitable soil materials where such other soil materials will create a final soil having a greater productive capacity than that which exist prior to mining. If not utilized immediately, this material shall be placed in stockpiles separate from the spoil and all other excavated materials; and

(2) Separately remove the B or C horizon or other suitable soil material to provide the thickness of suitable soil required by § 823.14(b). If not utilized immediately, each horizon or other material shall be stockpiled separately from the spoil and all other excavated materials. Where combinations of such soil materials created by mixing have been shown to be equally or more favorable for plant growth than the B horizon, separate handling is not necessary.

(d) Stockpiles shall be placed within the permit area where they will not be disturbed or be subject to excessive erosion. If left in place for more than 30 days, stockpiles shall meet the requirements of § 816.22 or 817.22 of this chapter.

§ 823.14 Soil replacement.

(a) Soil reconstruction specifications established by the U.S. Soil Conservation Service shall be based upon the standards of the National Cooperative Soil Survey and shall include, as a minimum, physical and chemical characteristics of reconstructed soils and soil descriptions containing soil-horizon depths, soil densities, soil pH, and other specifications such that reconstructed soils will have the capability of achieving levels of yield equal to, or higher than, those of nonmined prime farmland in the surrounding area.

(b) The minimum depth of soil and substitute soil material to be reconstructed shall be 48 inches, or a lesser depth equal to the depth to a subsurface horizon in the natural soil that inhibits or prevents root penetration, or a greater depth if determined necessary to restore the original soil productive capacity. Soil horizons shall be considered as inhibiting or preventing root penetration if their physical or chemical properties or water-supplying capacities cause them to restrict or prevent penetration by roots of plants common to the vicinity of the permit area and if these properties or capacities have little or no beneficial effect on soil productive capacity.

(c) The operator shall replace and regrade the soil horizons or other root-zone material with proper compaction and uniform depth.

(d) The operator shall replace the B horizon, C horizon, or other suitable material specified in § 823.12(c)(2) to the thickness needed to meet the requirements of Paragraph (b) of this section.

(e) The operator shall replace the topsoil or other suitable soil materials specified in § 823.12(c)(1) as the final surface soil layer. This surface soil layer shall equal or exceed the thickness of the original surface soil layer, as determined by the soil survey.

§ 823.15 Revegetation and restoration of soil productivity.

(a) Following prime farmland soil replacement, the soil surface shall be stabilized with a vegetative cover or other means that effectively controls soil loss by wind and water erosion.

(b) Prime farmland soil productivity shall be restored in accordance with the following provisions:

(1) Measurement of soil productivity shall be initiated within 10 years after completion of soil replacement.

(2) Soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop determined under Paragraph (b)(6) of this section. A statistically valid sampling technique at a 90-percent or greater statistical confidence level shall be used as approved by the regulatory authority in consultation with the U.S. Soil Conservation Service.

(3) The measurement period for determining average annual crop production (yield) shall be a minimum of 3 crop years prior to release of the operator's performance bond.

(4) The level of management applied during the measurement period shall be the same as the level of management used on nonmined prime farmland in the surrounding area.

(5) Restoration of soil productivity shall be considered achieved when the average yield during the measurement

period equals or exceeds the average yield of the reference crop established for the same period for nonmined soils of the same or similar texture or slope phase of the soil series in the surrounding area under equivalent management practices.

(6) The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one of the reference crops.

(7) Reference crop yields for a given crop season are to be determined from—

(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service; or

(ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

(8) Under either procedure in Paragraph (b)(7) of this section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service, for—

(i) Disease, pest, and weather-induced seasonal variations; or

(ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

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federal register

Thursday
May 12, 1983

Part III

Department of Defense

Corps of Engineers, Department of the Army

Proposal to Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 322, 323, 325, 327, 328 and 330

Proposal To Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

AGENCY: Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to amend the Corps of Engineers permit regulations for controlling certain activities in the waters of the United States. These amendments are being proposed to bring about more efficient, effective operation of the Corps' regulatory program and to implement the May 7, 1982, decisions of the Presidential Task Force on Regulatory Relief, while still carrying out fully the statutory requirements. The Task Force directed the Army to reduce uncertainty and delay, give the states more authority and responsibility reduce conflicting and overlapping policies, expand the use of general permits and redefine and clarify the scope of the permit program. The nationwide permits issued on July 22, 1982 (47 FR 31794) would be modified by adding additional conditions to address special water quality and coastal zone management concerns and to highlight any regional modifications made by division engineers. The headwaters and isolated waters nationwide permit would be modified to reimpose the 10-acre lake limitation as existed prior to July 22, 1982. Two new nationwide permits are being proposed to reduce duplication with other Federal agency programs and to authorize certain activities considered in the authorization of Federal expenditures for Corps of Engineers projects. The modification to the existing permits and the two new permits would become effective only after public comment and opportunity to request a public hearing and determination that these proprosals are in the public interest. The existing nationwide permits at 33 CFR 330 continue in effect until July 22, 1987. However, based on public comment, some of those permits may be modified or revoked if analysis required by 33 CFR 325.7 so indicates. In that connection, states are being given the opportunity to update the certification of all the nationwide permits at 33 CFR 330 pursuant to Section 401 of the Clean Water Act and Section 307(c) of the Coastal Zone Management Act.

DATE: Written comments must be received by July 11, 1983.

ADDRESS: Office of the Chief of Engineers, ATTN: DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. Bernie Goode, Regulatory Branch, (202) 272–0199.

SUPPLEMENTARY INFORMATION:

Why Revisions to the Regulations Are Being Proposed

Executive Order 12291, signed by the President on February 17, 1981, established the Presidential Task Force on Regulatory Relief to advise the Federal agencies in reducing unnecessary regulatory burdens.

During the summer of 1981 the Presidential Task Force identified the Corps Regulatory Program as one requiring review. On August 1, 1981, an interagency working group headed jointly by the Office of Management and budget and the Department of the Army began an intensive review of the sections 10 and 404 permit programs for the Presidential Task Force. On May 7, 1982, the Presidential Task Force completed its review of these programs and announced the initiation of administrative reforms. A synopsis of the administrative reforms follows:

Deciding most permit applications within 60 days; streamlining the existing agreements between the Corps and other Federal agencies to minimize the number of applications elevated for higher review and to allow differences of opinion on applications that raise major issues to be resolved within 90 days; and increasing the number and type of activities covered by general permits.

Strengthening the Federal-state partnership by speeding up each State's responses to Corps permit applications, issuing state program general permits in those cases where existing state or local regulatory programs generally accomplish the same results as the Corps' program, and deferring to states and local governments on those issues that are properly their concern.

Reducing conflicting and overlapping policies by recognizing documentation and decisions made by other agencies within their areas of responsibility, reducing complexity within our own regulations which may tend to impede the reform measures and, clarifying the scope of the section 404 permit program.

Implementation of Final Regulations

Final Regulations will be issued following receipt of comments on these proposed rules. Appropriate consideration will be given to comments received on both these proposed rules and the Interim Final Regulations, issued on 22 July 1982.

The Proposed Changes

Part 320—General Regulatory Policies

Section 320.4(a)(1): "Considerations of property ownership" would be explicitly expressed as a factor of the public interest. This has always been a basic tenet of Corps policy and has been implicit in previous regulations. The statement that "No permit will be granted unless its issuance is found to be in the public interest", would be changed to "A permit will be granted unless its issuance is found to be contrary to the public interest." The intent of this change is to recognize that within the context of the public interest review, an applicant's proposal is presumed to be acceptable unless demonstrated by the government not to be. However, particular note must be made of Section 404 permit applications and the evaluation under the 404(b)(1) guidelines, 40 CFR 230, which carries the statutory presumption that a discharge of dredged or fill material is environmentally harmful unless the applicant can demonstrate otherwise. Failure to rebut that 404(b)(1) presumption is cause for the district engineer to find that the proposal is contrary to the public interest. However, if that presumption is successfully rebutted, or if the activity does not involve Section 404 or Section 103 of the Ocean Dumping Act, it will be presumed to be in the public interest unless demonstrated to be otherwise, subparagraph (2)(iii) of 320.4(a) on the extent and permanence of beneficial or detrimental effects would also be changed to require a likelihood of occurrence rather than a speculative analysis.

Section 320.4(g): The policy statement currently titled, "Interference with adjacent properties or water resource projects, would be renamed, "Consideration of property ownership," and subparagraph (1) added to reinforce our policy on reasonable use of private property. If this new subparagraph is adopted, existing subparagraphs (1) through (4) would be renumbered (2) through (5), respectively.

Section 320.4(b)(5)(c), (m), (n) and (o): All references to "great weight" and other language that would prejudge the significance of a particular factor of the public interest in any given case would be deleted. Section 320.4(a)(1) discusses the general public interest balancing

process which requires that all factors which may be relevant must be considered. The "weight" of each factor is determined by its importance and relevance to the particular proposal. Thus, a factor may be given great weight on one proposal while it may not be as important on another.

Section 320.4(j)(2): This section would be revised to emphasize that state and local government decisions on state and local matters will be supported unless there are specific issues of overriding national importance.

Section 320.4(p), (q), and (r): Policy statements would be added to recognize that environmental and economic benefits must be considered in a public interest balance when they are present; a statement expressing (for the first time) the Corps' mitigation policy would also be added.

Part 322—Structures and Work and

Part 323—Permits for Discharges of Dredged or Fill Material Into Waters of the United States

Sections 322.2(f)(2) and 323.2(n)(2): Both sections deal with the definition of general permits. A change is proposed to revise and clarify the definition to respond to concerns raised in comments on the interim final regulations published on July 22, 1982 (47 FR 31794). The change involves the requirements of Section 404(e) for general permit activities to be similar and have minimal individual and cumulative effects. Several questions were raised also about how the general permit would affect EPA's potential transfer of the Section 404 program to the states. At this point, it should be noted that both concerns, i.e., 404(e) compliance and state transfer, are derived from Clean Water Act requirements and, as such, do not affect the definition at Section 322.2(f) which is for Section 10 actions under the River and Harbor Act of 1899. However, we have decided for consistency and clarity in the program to use the same definition for both Section 10 and Section 404 authorities. As to compliance with Section 404(e), we intend that any general permit which is designed to avoid unnecessary duplication should be issued only in those instances where regulation by the Corps is duplicative of regulation by another agency and where reduction of intensity of Corps regulation from individual case review to general permit would result in essentially no difference in the ultimate decision on the project. Hence, the effect of removing the more intensive review by the Corps would result in only minimal impacts individually and cumulatively. Certain requirements would have to be met with respect to how the programs duplicate each other and any general permits issued would be subject to appropriate conditions, the discretionary authority to override the general permit and require individual review when necessary and also to the Corps' and EPA's enforcement authorities. Therein lies the response to the question of whether this would be a de facto transfer to the states. Federal jurisdiction would not be removed or turned over to the states or to other agency programs. The level of intensity of Corps regulation would be reduced in those situations adequately controlled by others, and the full level of intensity would be maintained where necessary. Full enforcement authority at the Federal level would be continued in all instances.

Section 323.2(a): In response to the many public concerns and the Presidential Task Force directives, we are proposing to clarify the scope of the Section 404 permit program. In approaching this task, we recognize the legal restraints against *changing* the scope of our jurisdiction and we therefore, restricted our consideration to alternative ways of *clarification* of the overall definition of "Waters of the United States." We looked particulatly at numerous ways to redefine/clarify the definition of "wetlands." One suggestion was to use the presence of water covering the wetland for a duration of 15% of the time. Another involved the use of the so-called multi-parameter approach which places emphasis on the presence of the three parameters of hydrology, vegetation, and soils. We concludedthat such added dimensions to the existing definition would not provide clarification in the sense that the Task Force intended. Our intense search for clarification, involving these and several other alternatives, has caused us to take another hard look at our current definition of Waters of the United States and to propose at this time that we clarify it simply by setting the definition apart in a separate and distinct Part 328 of the regulation and including in that part all of the definitions of terms related to the scope of the Section 404 permit program. Additionally, we have provided a new mechanism and a new subsection (328.7) within which we would place future clarification of the jurisdictional scope of the program for unusual areas such as the Arctic Tundra which don't fit neatly into a generic definition. We believe that this new Part 328 is a positive response to the Task Force mandate. Part 328 incoroprates the definitions previously found in 323.3(a) thru (d), (g), and (h). Those sections would be deleted if Part 328 promulgated. The current EPA Section 404(b)(1) guidelines contain a different definition of waters of the United States and of discharges of fill material. We have reached agreement with EPA that the definitions should be identical and will ensure that future regulations will be consistent.

Part 325—Permit Processing

Several minor changes would be made to address what and when additional information is requested of the applicant, to provide for a reasonable comment period, to allow combining permit documentation and to require documentation of overriding significant national issues. In addition to these changes, the following changes would be made to this Part:

Section 325.1f): No change to the fee structure itself is proposed, but we would eliminate the requirement that the applicant sign the permit before the district engineer does in order to reduce existing unnecesssary delays.

Section 325.2(b)(1)(ii): This would provide that normally 30 days from the date of the public notice would be a reasonable time for the states to act on the Sectin 401 water quality certification. However, reasonable consideration would be given to time extensions on the individual case or class of activity at the request of the certifying agency.

Section 325.2(b)(2)(ii): This would provide for agreements between the Corps and state coastal zone agencies which would reduce delays caused by undertainties of the status of the Coastal Zone Management Certification at the end of the comment period.

Section 325.2(d)(4): This section which allows the district engineer to act prior to actions of other regulatory agencies would be revised to make the timing of the district engineer's decision consistent with other requirements of these regulations.

Sections 325.2(e)(1) and 325.5(b)(2): This would establish a procedure whereby minor Section 404 discharges could be authorized by a Letter of Permission (LOP) in the same manner as has existed for minor Section 10 activities. We would add another limitation on all LOP's requiring the activities to be of a nature that would qualify for a "categorical exclusion" under the NEPA regulations. This publication of proposed rules provides the notice and opportunity for hearing under Section 404(a)(1) for those section 404 actions meeting the LOP criteria.

Section 325.4: We are proposing to expand the authority to condition permits to provide for the first time, for either on-site or off-site mitigation under certain circumstances. We are also specifying in this Section that the district engineer would not require bonds that are duplicated by other agencies.

Section 325.9: This new section would clarify the district engineer's authority to determine the area defined by the term "navigable waters of the United States" and "waters of the United States". This authority would not include determinations of navigability pursuant to Part 329 which remain under the division engineer's authority, nor would it include Section 404 jurisdictional determinations made by the EPA under its authority. Division engineers will determine if the degradation of destruction of isolated waters would affect interstate commerce and thereby qualify as waters of the United States, based on a report of findings prepared by the district engineer.

Part 327—Public Hearing

Sections 327.4(b) and 327.11(a): These sections would be revised to allow the acknowledgement of form letters or petitions by a single letter to the person or organization responsible for initiating the from letter or petition.

Part 328—Definition of Waters of the United States

We propose to add this new part as discussed in Part 323.2 above.

Part 330—Nationwide Permits

Since a few states have indicated they may choose to deny Section 401 certification for some of the nationwide permits, we would add a condition to all of the nationwide permits requiring that if the state denies the 401 certification for the nationwide permit, an individual 401 state water quality certification or waiver must be obtained before the activity is authorized by the nationwide permit. We would also add a condition to the nationwide permits that requires compliance with regional conditions developed by the division engineer in accordance with § 330.7 and one that requires a coastal zone management consistency certification if a state does not concur with the Corps' finding that the nationwide permit is consistent with the approved state coastal zone program and desires to make individual consistency determinations. District engineers would be required to keep the public informed of those states which have denied water quality certification and/or coastal zone consistency and where additional regional conditions are applied.

Section 330.2(c): A definition of natural lakes larger than 10 acres would be added because of the change proposed in § 330.4 below.

Sections 330.4(a) (1) and (2): Since we published the Interim Final Rules on July 22, 1982, there have been concerns raised regarding the inclusion of natural lakes larger than 10 acres within the nationwide permits for certain waters. In response to that concern, we are considering reinstating the 10-acre lake limit for areas covered by these nationwide permits. In other words, 404 discharge activities in lakes less than 10 acres would, under this proposal, continue to be permitted (subject to certain conditions), but 404 discharges in lakes larger than 10 acres would not be covered by these nationwide permits.

Sections 330.5(a) (26) and (27): We are proposing two new nationwide permits, (26) to reduce unnecessary duplication with other Federal agencies and (27) to reduce duplication within the Corps of Engineers for non-Corps activities when those activities have been considered during the project planning and must be constructed in order to provide the public benefits for which the project has been justified. The proposed permits are similar in that during the planning, review and authorization for other Federal Activities and for Corps projects, all Federal statutes apply. NEPA documentation is developed, Fish and Wildlife Coordination Act requirements are met, and endangered species, wild and scenic rivers, cultural resources and other matters of national interest are addressed. These permits would eliminate that review taking place a second time. We would, however, require a specific review under Section 404(b)(1) guidelines for each case as that review is not necessarily provided for under other agency programs or for the non-Federal development adjacent to Corps projects.

Section 330.7(a): This new sub-section would provide division engineers with discretionary authority to add individual conditions to nationwide permits on a case-by-case basis when there is mutual agreement between the permittee and the division engineer or when determined necessary based on conditions of a state's 401 certification.

Section 330.9—This new section would provide a procedure to handle state water quality certification of activities covered by a nationwide permit if a state initially denies the water quality certification for the nationwide permit but later certifies it for specific individual cases or classes of activities. If this section is adopted, we would delete footnotes 1 and 7 in the July 22, 1982, regulation and renumber the remaining footnotes.

Section 330.10: This new section provides clarification that in order to activate the nationwide permit, in some states, the applicant must provide the district engineer with a coastal zone management consistency certification, and the state must concur with the certification.

Public Comments

We welcome public comment on the two new nationwide permits, the reinstatement of the 10-acre lake limitation on the nationwide permits at Section 330.4, and proposed modifications to all of the nationwide permits. However, it is not necessary to repeat any comments that were submitted in response to the July 22, 1982, interim final regulations as they will be considered prior to publication of final regulations. Public comment will help us decide whether to issue the two nationwide permits and to modify or revoke any of the existing nationwide permits.

401 Certification of the Nationwide Permits

Prior to publication on July 22, 1982, of the Corps' interim final regulations on the permit program, only the State of Wisconsin had denied Section 401 certification of some of the nationwide permits involving discharges. All other states waived certification. In response to the July 22, 1982 interim final regulations, several states which had waived certification indicated that they may now wish to deny 401 certification for some of the nationwide permits. Although we continue to believe that most states will confirm waiver of 401 certification or will provide new certification, we are allowing all states to reconsider 401 certification of the nationwide permits. Only those 401 certifications denied or issued before publication of the final regulations will be accepted. Upon publication of the final regulations, all other certifications will be considered to be waived.

Coastal Zone Management

Several states have indicated in response to the July 22, 1982, publication that some or all of the nationwide permits are inconsistent with or require an individual determination to verify consistency with their state-approved coastal zone management programs. While all states had waived consistency certification in connection with those July regulations and we continue to believe that the nationwide permits

appropriately administered are consistent with CZM plans, we are allowing all states to reevaluate their consistency determinations and to advise us of their conclusions prior to publication of the final regulations in mid 1983. Consistency will be presumed for all states which do no indicate to the contrary.

Assessment of Cumulative Impacts (Reporting)

Concerns have been raised that the nationwide permit system lacks adequate monitoring capability, particularly with regard to cumulative impacts. In publishing the interim final regulations on July 22, 1982, we decided not to impose a case-by-case reporting requirement as some people had suggested because we believe that in most locations, there are other, more efficient and effective means of tracking any potential cumulative impacts. That does not preclude division engineers from including case-by-case reporting as a regional condition of any of the nationwide permits where it is found to be necessary and appropriate. Nevertheless, we solicit further views on the need for a reporting requirement, whether there is a threshold size of fill below which reporting would not be necessary, and whether other management mechanisms such as statistical surveys, periodic reports from state or local agencies with similar programs, or other measures may provide more appropriate controls.

Public Hearing Requests

Any person may request a public hearing on the two proposed nationwide permits, proposed modifications to the existing nationwide permits, or the proposal to allow letters of permission to be issued for minor 404 activities. If the Corps determines that a public hearing or hearings would assist in making a decision on either of the nationwide permits, proposed modifications to the existing nationwide permits, or the 404 letter of permission proposal, a 30 day advance notice will be published in the **Federal Register** advising interested parties of the date(s) and location(s) for the hearing(s).

Nationwide Permits Documentation

The Corps will prepare findings of fact and environmental documentation before issuing either of the nationwide permits. The documentation will include that required by the EPA guidelines adopted under Section 404(b)(1) of the CWA. The Corps will issue these permits only if they are found to be in the public interest and in compliance with the 404(b)(1) guidelines.

Note 1.—The Department of the Army has determined that the proposed regulation revisions do not contain a major proposal requiring the preparation of a regulatory analysis under E.O. 12291.

Note 2.—The term "he" and its derivatives used in these regulations is generic and should be considered as applying to both male and female.

List of Subjects

33 CFR Part 320

Environmental protection, intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 322

Continental shelf, Electric power, Navigation, Water pollution control, Waterways.

33 CFR Part 323

Navigation, Water pollution control, Waterways.

33 CFR Part 325

Administrative practice and procedure, Intergovernmental relations, Environmental protection, Navigation, Water pollution control, Waterways.

33 CFR Part 327

Administrative practice and procedure, Navigation, Water pollution control, Wateways.

33 CFR Part 328

Waters of the United States.

33 CFR Part 330

Navigation, Water pollution control, Waterways.

Dated: May 6, 1983.

Approved:

Robert K. Dawson,

Deputy, Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army proposes to amend 33 CFR Parts 320, 322, 323, 325, 327, 330 and add Part 328 as set forth below:

Authority: 33 U.S.C. 401 et seq., 33 U.S.C. 1344, 33 U.S.C. 1413.

PART 320—GENERAL REGULATORY POLICIES

1. Section 320.4 is amended by revising paragraphs (a)(1), (a)(2)(iii), (b)(5), (c), the title and introductory text of (g), (g)(1), (j)(2), (m), (n), and (o)(3) and by adding paragraphs (p), (q), and (r) to read as follows:

§ 320.4 General policies for evaluating permit applications.

* * * * *

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. A permit will be granted unless its issuance is found to be contrary to the public interest.

(2) * * *

(iii) The extent and permanence of beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited.

(b) *Effect on wetlands.* * * *

(5) In addition to the policies expressed in this subpart, the Congressional policy expressed in the Estuary Protection Act, Pub. L. 90–454, and state regulatory laws or programs for classification and protection of wetlands will be considered.

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (§ 320.3(e) of this section) Corps of Engineers officials will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which is to be performed, with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application.

* * * * *

(g) *Consideration of property ownership.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) An inherent aspect of property ownership is a right to reasonable private use and development. This principle will be recognized as a factor in the public interest review process.

* * * * *

(j) *Other Federal, state, or local requirements.* * * *

(2) The primary responsibility for determining local matters such as zoning and land use rests with state, local, and tribal governments. The district engineer will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance. Such issues would include but are not necessarily limited to national security, navigation, national economic development, water quality, and national energy needs. Whether a factor has overriding importance will depend on the degree of impact in an individual case.

* * * * *

(m) *Water supply and conservation.* Water is an essential resource, basic to human survival, economic growth, and the natural environment. Water conservation requires the efficient use of water resources in all actions which involve the significant use of water or that significantly affect the availability of water for alternative uses, including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements. Action affecting water quantities are subject to Congressional policy stated in Section 101(g) of the Clean Water Act that the authority of states to allocate water quantities shall not be superseded, abrogated, or otherwise impaired.

(n) *Energy conservation and development.* Energy conservation and development are major national objectives. District engineers will give high priority to permit actions involving energy projects.

(o) *Navigation.* * * *

(3) Protection of navigation in all navigable waters of the United States continues to be a primary concern of the Federal government.

* * * * *

(p) *Environmental benefits.* Some activities that require Department of the Army permits result in beneficial effects to the quality of the enviornment. The district engineer will weigh these benefits as well as environmental detriments along with other factors of the public interest.

(q) *Economics.* When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed and, therefore, the proposal is economically viable and there is a need for it in the marketplace. The economic benefits of many projects are important to the local community and contribute to needed improvements in the local economic base, affecting such factors as employment, tax revenues, community cohesion, community services, and property values. Many projects also contribute to the National Economic Development (NED) which are increases in the net value of the national output of goods and sevices.

(r) *Mitigation.* (1) Inherent in the Corps' decisionmaking process is the requirement to consider measures to mitigate adverse impacts of a proposed activity. When reviewing permit applications district engineers will consider practicable mitigation measures that are not inconsistent with the accomplishment of the applicant's basic purpose.

(2) Mitigation measures identified by the district engineer will be considered as part of the public interest balancing process. District engineers are authorized to condition permits for appropriate mitigation in accordance with 33 CFR Part 325.4. If mitigation is found to be necessary in order for a proposal to be in the public interest but cannot be accomplished either through another program outside the scope of the Corps' regulatory program or cannot be required under 33 CFR Part 325.4, then the permit should be denied.

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

2. Section 322.2 is amended by revising paragraph (f) (2) to read:

§ 322.2 Definitions.

* * * * *

(f) * * *

(2) The general permit would promote government efficiency by reducing duplication of effort with other local, state, and Federal programs where the following comparisons are shown between the Corps regulatory program and the other agency program:

(i) The environmental effects of the difference between the Corps decision and the other agency decision are likely to be individually and cumulatively minimal.

(ii) The programs are similar in the following respects:

(A) Scope of jurisdiction.

(B) Types of activities involved.

(C) Standards of review.

(D) Enforcement capability.

(E) Public involvement.

(iii) Such permits may also be issued for other agency programs which have some dissimilarities where reasonable and manageable conditions can be developed to insure that the substantive requirements of paragraph (f)(2) (i) and (ii) of this section are met.

* * * * *

PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

3. Section 323.2 is amended by revising pragraphs (a) and (n)(2) to read:

§ 323.2 Definitions.

* * * * *

(a) The term "waters of the United States" [1] means:

(1) The Territorial Seas;

(2) All waters that are part of a surface tributary system to and including navigable waters of the United States; and

(3) Isolated waters and their tributaries, the degradation or destruction of which could affect interstate or foreign commerce.

See 33 CFR Part 328 for a more complete definition of this term.

(n) * * *

(2) The general permit would promote government efficiency by reducing duplication of effort with other local, state, and Federal programs where the following comparisons are shown between the Corps regulatory program and the other agency program:

(i) The environmental effects of the differences between the Corps decision and the other agency decision are likely to be individually and cumulatively minimal.

(ii) The programs are similar in the following respects:

(A) Scope of jurisdiction.

(B) Types of activities involved.

(C) Standards of review.

(D) Enforcement capability.

(E) Public involvement.

(iii) Such permits may also be issued for other agency programs which have some dissimilarities where reasonable and manageable conditions can be developed to insure that the substantive

[1] The terminology used by the CWA is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity, and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout this regulation.

requirements of paragraph (n)(2) (i) and (ii) of this section are met.

* * * * *

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

4. Section 325.1 is amended by revising paragraphs (d)(1), (e), and (f) to read:

§ 325.1 Application for permits.

* * * * *

(d) *Content of application.* (1) Generally, the application must include a complete description of the proposed activity including necessary drawings, sketches or plans sufficient for public notice (the applicant is not expected to submit detailed engineering plans and specifications); the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other Federal, interstate, state or local agencies for the work, including all approvals received or denials already made. See also § 325.3 for information required to be in public notices. District and division engineers are not authorized to develop additional information forms but may request specific information on a case-by-case basis (See § 325.1(e)).

* * * * *

(e) *Additional information.* In addition to the information indicated in paragraph (d), of this section, the applicant will be required to furnish only such additional information as the district engineer deems essential to make a public interest determination. Such additional information may include environmental data and information on alternate methods and sites as may be necesary for the preparation of the required environmental documentation.

(f) *Fees.* Fees are required for permits under Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charge for permit applications when the proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise. The final decision as to the basis for a fee (commercial vs. non-commercial) shall be solely the responsibility of the district engineer. No fee will be charged if the applicant withdraws the application at any time prior to issuance of the permit or if the permit is denied. Collection of the fee will be deferred until the proposed activity has been determined to be in the public interest. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions, general permits or letter of permission. Agencies on instrumentalities of Federal, state, or local governments will not be required to pay any fee in connection with permits.

5. Section 325.2 is amended by revising paragraph (a)(3), (a)(6), (b)(1)(ii), (b)(2)(ii), (d)(2)—(d)(5), and (e)(1) to read:

§ 325.2 Processing of applications.

(a) *Standard procedures.* * * *

(3) The district engineer will consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged, and they will be made a part of the administrative record of the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the district engineer may seek the advice of that agency. All substantive comments must be furnished the applicant for his information and any resolution or rebuttal he may propose. The applicant may voluntarily elect to contact objectors in an attempt to resolve objections but will not be required to do so. The district engineer will not delay processing of the application unless the applicant requests a reasonable delay, not to exceed 30 days, to provide additional information or comments. If the district engineer determines, based on comments received, that he must have the views of the applicant to make a public interest determination, the applicant will be given the opportunity to furnish his views to the district engineer (see § 325.2(d)(3)).

* * * * *

(6) After all above actions have been completed, the district engineer will determine, in accordance with the record and applicable regulations, whether or not the permit should be issued. He shall prepare a statement of findings (SOF) or, where an EIS has been prepared, a record of decision (ROD), on all permit decisions. The SOF or ROD shall include the district engineer's views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or with the criteria for dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), if applicable, and the conclusions of the district engineer. The SOF or ROD shall be dated, signed, and included in the record prior to final action n the application. Where the district engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the SOF or ROD. If a district engineer makes a decision on a permit aplication which is contrary to state or local decisions (33 CFR Part 320.4(j)(2)), the district engineer will document in the SOF or ROD the significant national issues and explain how they are overriding in importance. If a permit is warranted, the district engineer will determine the special conditions, if any, and duration which should be incorporated into the permit. In accordance with the authorities specified in § 325.8 of this Part, the district engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final EIS or environmental assessment, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed by the Chief of Engineers. District and division engineers will notify the applicant and interested Federal and state agencies that the application has been forwarded to higher headquarters. The district or division engineer may, at his option, disclose his recommendation to the news media and other interested parties, with the caution that it is only a recommendation and not a final decision. Such disclosure is encouraged in permit cases which have become controversial and have been the subject of stories in the media or have generated strong public interest. In those cases where the application is forwarded for decision in the format prescribed by the Chief of Engineers, the report will serve as the SOF or ROD. District engineers may, and are encouraged to, combine the SOF, environmental assessment, and findings of no significant impact (FONSI), 404(b)(1) guideline analysis,

and/or the criteria for dumping of dredged material in ocean waters into one or more documents.

(b) *Procedures for particular types of permit situations.*

(1) * * *

(ii) No permit will be granted until required certification has been obtained or has been waived. Waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within thirty days after receipt of such a request unless the district engineer determines a shorter or longer period is reasonable for the state to act. In determining whether or not a waiver period has commenced or waiver has occurred, the district engineer will verify that the certifying agency has received a valid request for certification. If, however, special circumstances identified by the district engineer require that action on an application be taken within a more limited period of time, the district engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement or certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than thirty days, the district engineer, based on information provided by the certifying agency, will determine a longer reasonable period of time, not to exceed one year, at which time a waiver will be deemed to occur.

(2) * * *

(ii) If the applicant is not a Federal agency and the application involves an activity affecting the coastal zone, the district engineer shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved state coastal zone management program. Upon receipt of the certification, the district engineer will forward a copy of the public notice (which will include the applicant's certification statement) to the state coastal zone agency and request its concurrence or objection. If the state agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the district engineer shall not issue the permit until the state concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the Coastal Zone Management Act or is necessary in the interest of national security. If the state agency fails to concur or object to a certification statement within six months of the state agency's receipt of the certification statement, state agency concurrence with the certification statement shall be conclusively presumed. District engineers will seek agreements with state CZM agencies that no comment by the agency during the public notice comment period will be considered as a concurrence with the certification.

* * * * *

(d) *Timing of processing of applications.* * * *

(2) The comment period on the public notice should be for a reasonable period of time within which interested parties may express their views concerning the permit. The comment period should not be more than 30 days nor less than 15 days from the date of the notice. The comment period will vary depending on the routine or non-controversial nature of the proposed activity, communication opportunities, and the district engineer's experience. However, if circumstances warrant, the district engineer may extend the comment period up to an additional 30 days. When a district engineer anticipates that a comment period less than 30 days will not aid in a processing time of less than the normal 60 days because of constraints beyond his control (see § 325.2(d)(3) below), he will normally provide a 30-day comment period.

(3) District engineers will decide on all applications not later than 60 days after receipt of a complete application unless: (i) Precluded as a matter of law or procedures required by law (see below), (ii) the case must be referred to higher authority (see § 325.8 of this Part), (iii) the comment period is extended, (iv) a timely submittal of information or comments is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 60-day period. Once the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended. For example, if the comment period is extended by 30 days, the district engineer will, absent other restraints, decide on the application within 90 days of receipt of a complete application. Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the National Historic Preservation Act, the Preservation of Historical and Archeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the Marine Protection, Research and Sanctuaries Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, consultation, special studies and testing which may prevent district engineers from being able to decide certain applications within 60 days.

(4) Once the district engineer has sufficient information to make his public interest determination, he should decide the permit application even though other agencies which may have regulatory jurisdiction have not yet granted their authorizations except where such authorizations are, by Federal Law, a prerequisite to making a decision on the Army permit application. Permits granted prior to other (non-prerequisite) authorizations by other agencies should, where appropriate, be conditioned in such manner as to give those other authorities an opportunity to undertake their review without the applicant biasing such review by making substantial resource commitments on the basis of the Army permit. In unusual cases, the district engineer may decide that due to the nature or scope of a specific proposal, it would be prudent to defer taking final action until another agency has acted on its authorization. In such cases, he may advise the other agency of his position on the Army permit while deferring his final decision.

(5) The applicant will be given a reasonable time, not to exceed 30 days, to repond to requests of the district engineer. The district engineer may make such requests by certified letter and clearly inform the applicant that if he does not respond with the requested information or a justification why additional time is necessary, then his application will be considered withdrawn or a final decision will be made whichever is appropriate. If additional time is requested, the district engineer will either grant the time, make a final decision, or consider the application as withdrawn.

(e) *Alternative procedures.* Division and district engineers are authorized to use alternative procedures as follows:

(1) *Letters of permission.* In those cases subject to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act in which, in the opinion of the district engineer, the proposed work would be minor, would not have significant individual or cumulative impact on environmental values, should encounter no appreciable opposition, and would qualify as a "categorical exculusion" (see 33 CFR

230, Appendix B), the district engineer may omit the publishing of a public notice and authorize the work by a letter of permission. However, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and state, as required by the Fish and Wildlife Coordination Act. The letter of permission will not be used to authorize the transportation of dredged material for purposes of dumping it in ocean waters. The letter of permission form is specified in § 325.5 of this part.

* * * * *

6. Section 325.3 is amended by revising paragraph (a)(14) to read:

§325.3 Public Notice.

(a) *General.* * * *

(14) The comment period based on § 325.2(d)(2).

* * * * *

7. Section 325.4 is revised to read:

§ 325.4 Conditioning of permits.

(a) District engineers are authorized to add special conditions to permits when those conditions meet all of the following requirements:

(1) Are necessary to satisfy a legal requirement, necessary to protect the public interest, or practicable and justifiable to avoid or mitigate other than minor adverse effects on fish and wildlife resources which occur within waters of the United States;

(2) Are directly related to the impacts of the proposal and are appropriate to the scope and degree of the impacts of concern;

(3) (i) Can be accomplished on site or;

(ii) May be accomplished off-site for mitigation of significant losses which are specifically identifiable, reasonably certain to occur, and of importance to the human environment;

(4) Do not duplicate local, state, or Federal programs or authorities which are established to achieve the objective of the desired condition;

(5) Are reasonably enforceable; and

(6) An agreement, enforceable at law, between the applicant and the party (ies) concerned with the resource use is not practicable.

(b) District engineers may add conditions, exclusive of paragraph (a) of this section, at the applicant's requests or to clarify the applicant's proposal.

(c) *Bonds.* If the district engineer has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government aganist any loss as a result of corrective action it might take. District engineers will not require bonds which duplicate local, state, or other Federal bonds.

8. Section 325.5 is amended by revising paragraph (b)(2) to reed:

§ 325.5 Forms of permits.

* * * * *

(b) * * *

(2) *Letters of permission.* A letter of permission will be issued where procedures of § 325.2(e)(1) have been followed. It will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions form, ENG Form 1721, will be attached and will be incorporated by reference into the letter of permission. For Section 404 activities, the letter of permission will, in appropriate cases, include a special condition indicating that the letter of permission will be effective when issuance or waiver of 401 certification has occurred. District engineers will seek from the states, where appropriate, generic issuance of waiver of 401 certification for classes of activities and/or waterbodies which may be subject to letter of permission procedures.

* * * * *

9. Section 325.9 is added to read:

§ 325.9 Authority to determine jurisdiction.

District engineers are authorized to determine the area defined by the terms "navigable waters of the United States" and "waters of the United States" except:

(a) When a determination of navigability is made pursuant to 33 CFR Part 329.14 (division engineers have this authority);

(b) When EPA makes a Section 404 jurisdiction determination under its authority; or

(c) When a determination must be made that an isolated waterbody is a water of the United States. Division engineers will determine if the degradation or destruction of such waters would affect interstate commerce based on a report of findings prepared by the district engineer.

PART 327—PUBLIC HEARINGS

10. Section 327.4 is amended by revising paragraph (b) to read:

§ 327.4 General policies.

* * * * *

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a Department of the Army permit application or on a Federal project, that a public hearing be held to consider the material matters in issue in the permit application or Federal Project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the district engineer may expeditiously attempt to resolve the issues informally. Otherwise, he shall promptly set a time and place for the public hearing, and give due notice thereof, as prescribed in § 327.11 of this Part below. Requests for a public hearing under this paragraph shall be granted unless the district engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The district engineer will make such a determination in writing and communicate his reasons therefor to all requesting parties. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

* * * * *

11. Section 327.11 is amended by revising paragraph (a) to read:

§ 327.11 Public notice.

(a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice should normally provide for a periodd of not less than 30 days following the date of public notice during which time interested parties may prepare themselves for the hearing. Notice shall also be given to all Federal agencies affected by the proposed action and to state and local agencies and other parties having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and published in newspapers of general circulation. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

* * * * *

12. Part 328 is added to read:

PART 328—DEFINITION OF WATERS OF THE UNITED STATES

Sec.

Sec.
328.7 Supplemental clarifications.

Authority: 33 U.S.C. 1344.

§ 328.1 Purpose.

The terminology used by Section 404 of the Clean Water Act is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout 33 CFR Parts 320–330. This regulation defines the term "waters of the United States" as it is used to define authorities of the Corps of Engineers under the Clean Water Act. It also prescribes the policy, practice, and procedures to be used in determining the extent of the jurisdiction of the Corps of Engineers and in answering inquiries concerning "waters of the United States." This definition does not apply to authorities under the River and Harbor Act of 1899 (see CFR Parts 322 and 329).

§ 328.2 General definition.

(a) Waters of the United States are:

(1) The Territorial Seas;

(2) All waters that are part of a surface tributary system to and including navigable waters of the United States; and

(3) Isolated waters and their tributaries, the degradation or destruction of which could affect interstate or foreign commerce.

(b) Waters of the United States do not include the following man-made waters:

(1) Non-tidal drainage and irrigation ditches excavated on dry land.

(2) Irrigated areas which would revert to upland if the irrigation ceased.

(3) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 123.11(m)).

(4) Artificial lakes or ponds created by excavation and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

(c) *Natural changes in lateral limits of Waters of the United States.* Permanent changes of the shoreline configuration result in similar alterations of the boundaries of the waters of the United States. Thus, gradual changes which are due to natural causes and are perceptible only over some period of time constitute changes in the bed of a waterbody which also change the boundaries of the waters of the United States. For example, changing sea levels or subsidance of land may cause some areas to become waters of the United States while siltation or a change in drainage may remove an area from waters of the United States.

§ 328.3 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" mean those waters that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR Part 329 for a more complete definition of this term.)

(b) The term "adjacent" means bordering, contiguous, or immediately neighboring and having a resonably perceptable surface or subsurface hyrodologic connection to a water of the United States.

(c) The term "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of liter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(d) The term "high tide line" means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide.

(e) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(f) The term "inundation" means a condition in which water temporarily or permanently covers a land surface.

(g) The term "saturated" means a condition in which all voids (pores) between soil particles are temporarily or permanently filled with water to the soil surface.

(h) The term "prevalence of vegetation" means those rooted emergent plants that comprise at least 50% of the dominant species within a plan community.

(i) The term "typically adapted" means normally or commonly suited to a given set of environmental conditions.

§ 328.4 Territorial seas.

Territorial seas for the purposes of the Clean Water Act are measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters extending seaward a distance of three nautical miles.

§ 328.5 Navigable waters of the United States and their surface tributaries.

(a) Tidal Waters of the United States include all waters subject to the ebb and flow of the tide landward to the high tide line and seaward to the outer limit of the territorial seas. (Non-tidal coastal wetlands are included in paragraph (b) of this section. The lateral limits of jurisdiction in tidal waters extends to the high tide line which may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(b) Non-tidal Waters of the United States includes all non-tidal navigable waters of the United States as defined in 33 CFR Part 329, all surface tributaries to those wates, and tributaries to tidal wates. (This includes non-tidal coastal wetlands.) The lateral limits of jurisdiciton:

(1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark, or

(2) When adjacent wetlands are present, the jurisdiction includes those wetlands.

§ 328.6 Isolated waters.

Isolated waters includes waters such as lakes, rivers, streams (including intermittent streams) mudflats, sandflats, lakes, or natural ponds that are not part of a surface tributary system to or themselves determined to be navigable waters of the United States where the use, degradation or destruction of the waterbody could affect interstate or foreign commerce.

(a) This definition includes any such waters:

(1) Which are interstate waters including interstate wetlands; or

(2) Which are used by interstate of foreign travelers for recreational or other purposes; or

(3) From which fish or shellfish are taken and sold in interstate or foreign commerce; or

(4) Which are used for industrial purposes by industries in interstate commerce.

(b) *Lateral limits of jurisdiction.* (1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark.

(2) In the case of wetlands themselves or wetlands adjacent to other isolated waters, the jurisdiction includes those wetlands.

§ 328.7 Supplemental clarifications.

The District Engineer may recommend to the Chief of Engineers that certain unique areas be more fully described in the Federal Regulations. Such descriptions would be published in the **Federal Register** for comment and, if appropriate, added as subsections to this section.

PART 330—NATIONWIDE PERMITS

13. Section 330.2 is amended by adding paragraph (c) to read:

§ 330.2 Definitions.

* * * * *

(c) Natural lakes larger than 10 acres means those naturally occurring waterbodies with a minimum of 5 acres of open water which including contiguous wetlands comprise a minimum of 10 acres.

14. Section 330.4 is amended by revising paragraphs (a) (1) and (2) and by adding paragraphs (b) (7)–(9) and (c) to read:

§ 330.4 Nationwide permits for discharges into certain waters.

(a) *Authorized discharges.* * * *

(1) Non-tidal rivers, streams and their impoundments including adjacent wetlands, but excluding natural lakes larger than 10 acres that are located above the headwaters.

(2) Other non-tidal waters of the United States that are not part of a surface tributary system to interstate waters or to navigable waters of the United States excluding natural lakes greater than 10 acres in surface area.

(b) *Conditions.* * * *

(7) In certain instances, an individual state water quality certification must be obtained or waived (See 330.9).

(8) Compliance with regional conditions which may have been added by division engineers (See Section 330.7(a)).

(9) In certain instances, an individual state coastal zone management consistency certification must be concurred in by a state (See Section 330.10).

(c) Natural lakes larger than 10 acres are not included in the nationwide permits identified in paragraph (a) of this seciton. Discharges of dredged or fill material into such lakes must be authorized by individual or regional permits unless covered by one or more of the nationwide permits listed in § 330.5 or exemption under 33 CFR Part 323.4.

15. Section 330.5. is amended by adding paragraphs (a)(26), (a)(27), and (b) (10)–(12) to read:

§ 330.5. Nationwide permits for specific activities.

(a) *Authorized activities.* * * *

(26) Structures, work, and discharges of dredged or fill material associated with projects undertaken, funded or authorized by another Federal agency or department where that agency or department determines that the structure, work, or discharge will not cause significant degradation of the waters of the United States through application of the 404(b)(1) guidelines, the appropriate district engineer has been furnished a copy of the agency's determination of no significant degradation, and the district engineer has made a determination that the proposal conforms to 404(b)(1) guidelines. (Sections 10 and 404)

(27) Structures, work, and discharges for facilities adjacent to Corps of Engineers civil works projects where justification for the Federal expenditure was based on construction of specific adjacent facilities, those facilities are constructed within a reasonable time of completion of the Federal project, and the district engineer conducts a case-by-case Section 404 (b)(1) guidelines analysis. (Sections 10 and 404.)

(b) *Conditions.* * * * * *

(10) In certain instances, an individual state water quality certification must be obtained or waived. (See § 330.9)

(11) Compliance with regional conditions which may have been added by division engineer. (See § 330.7(a))

(12) In certain instances, an individual state coastal zone management consistency certification must be concurred in by a state. (See § 330.10)

16. Section 330.7 is revised to read as follows:

§ 330.7 Discretionary authority.

Except as provided in paragraph (c)(ii) of this section division engineers, on their own initiative or upon recommendation of a district engineeer, are authorized to modify nationwide permits by adding individual or regional conditions or to override nationwide permits by requiring individual permit applications. Discretionary authority will be based on concerns for the aquatic environment as expressed in the guidelines published by EPA pursuant to section 404(b)(1). (40 CFR Part 230)

(a) *Individual conditions.* Division engineers ae authorized to modify nationwide permits by adding individual conditions on a case-by-case basis applicable to certain activities within their division. Individual conditions may be added either:

(1) In instances where there is mutual agreement between the district and the permittee or

(2) When the state requires individual 401 certification and the district or division engineer determines, consistent with Sections 325.4 and 330.9, that the conditions in the certification should be applied to the nationwide permit. A copy of the written notice of modification will be forwarded to the Office of the Chief of Engineers, ATTN: DAEN-CWO-N.

(b) *Regional conditions.* Division engineers are authorized to modify nationwide permits by adding conditions on a generic basis applicable to certain activities or specific geographic areas within their divisions. In developing regional conditions, division and district engineeers will follow standard permit processing procedures as prescribed in 33 CFR Part 325 applying the evaluation criteria of 33 CFR Part 320 and appropriate parts of 33 CFR Parts 321, 322, 323, and 324. A copy of the statement of findings will be forwarded to the Office of the Chief of Engineers, ATTN; DAEN-CWO-N. Division and district engineers will take appropriate measures to inform the public at large of the additional conditions.

(c) *Individual permits.* In nationwide permit cases where additional individual or regional conditioning may not be sufficient to protect the aquatic environment or where there is not sufficient time to develop such conditions under paragraphs (a) or (b) of this section, the division engineeer may require individual permit applications on a case-by-case basis. Where time is of the essence, the district engineer may telephonically recommend that the division engineer assert discretionary authority to require an individual permit application for a specific activity. If the division engineer concurs, he may verbally authorize the district engineer to implement that authority. Both actions will be followed by written confirmation with copy to the Chief of Engineers (DAEN-CWO-N). Additionally, after notice and opportunity for public hearing, division engineers may recommend to the Chief

of Engineers that individual permit applications be required for categories of activities, or in specific geographic areas. The division engineeer will announce the decision to persons affected by the action. The district engineer will then regulate the activity or activities by processing an application(s) for individual permit(s) pursuant to 33 CFR Part 325.

17. Section 3309 is added to read:

§ 330.9 State water quality certification.

In certain instances where a state has denied the 401 water quality certification for a particular nationwide permit, that permit does not authorize the activity until an individual state water quality certification has been obtained or waived for that activity. In such instances, the applicant must furnish the district engineer with a copy of the 401 certification or a copy of the application to the state for a 401 certification. If a state fails to act on an application for a 401 certification within 30 days of receipt of the application, then a waiver will be presumed. If the state issues a conditioned 401 certification, the district engineer should review such conditions in light of Section 325.4. While the district engineer is not required to automatically adopt conditions in a 401 certification, those conditions found to be in compliance with Section 325.4 should be cited as individual conditions in a letter sent to the applicant, with the explanation that authority for the proposed activity is subject to those individual conditions. Upon receipt of the 401 certification (or waiver) and after determining whether individual conditions should be imposed on the proposed activity, the district engineer will notify the applicant that the requirement for certification has been complied with and work may proceed as long as the permittee complies with all of the conditions of the nationwide permit. District engineers will take appropriate measures to inform the public of which states or waterbodies and for which nationwide permits such individual certification is required.

18. Section 330.10 is added to read:

§ 330.10 Coastal zone management consistency determination.

In certain instances where a state has not concurred in a particular nationwide permit as being consistent with its coastal zone management plan, that permit does not authorize the activity until the applicant has furnished to the district engineer a coastal zone management consistency certification pursuant to Section 307 of the Coastal Zone Management Act and the state has concurred with it. District engineers will take appropriate measures to inform the public of which states or waterbodies and for which nationwide permits such individual certification is required. If a state does not act on an applicant's consistency statement within six months after receipt by the state, consistency shall be presumed.

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May 12, 1983

Part IV

Federal Communications Commission

Low Power Television Proceeding; Miscellaneous Actions

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[BC Docket No. 78-253; RM-2846; RM-3109; FCC 83-129]

The Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein denies the bulk of the petitions for reconsideration filed with respect to the Commission's Report and Order in BC Docket No. 78-253—the Commission's low power television proceeding. However, the instant action also grants limited reconsideration with regard to certain aspects of the Report and Order, clarifies portions of that Order, and changes several Commission rules primarily in order to shorten and simplify the renewal and transfer forms for low power and translator stations and to facilitate the rapid implementation of the low power service.

DATE: Rules changes will become effective on June 13, 1983; FCC Forms changes will become effective upon approval by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman, Mass Media Bureau (202) 632-3894.

List of Subjects

47 CFR Part 73

Auxiliary television stations.

47 CFR Part 74

Television.

Memorandum Opinion and Order

In the matter of an inquiry into the future role of low power television broadcasting and television translators in the National Telecommunications System, BC Docket No. 78-253, RM-2846, RM-3109.

Adopted: March 31, 1983.

Released: May 6, 1983.

By the Commission.

1. The Commission has before it for consideration various petitions seeking reconsideration and/or clarification of our *Report and Order* authorizing the low power television service.[1] *Report and Order*, FCC 82-107, 47 FR 21468 (published May 18, 1982) (hereinafter referred to as "*Report and Order*"). Also before the Commission are various oppositions, comments and replies concerning those petitions.[2]

Background

2. Proposed on September 9, 1980, the rule changes adopted in the *Report and Order* permit TV translator stations to originate programming and operate on a subscription basis. During the pendency of this proceeding, the Commission continued to accept and process translator applications, including applications accompanied by waiver requests to include low power features. However, in April 1981, the Commission had to stop accepting most new translator applications due to the volume of interim applications filed. In July 1981, the Commission issued a *Further Notice of Proposed Rule Making* in this docket, requesting comments on prohibited overlap standards that would facilitate automated processing of the pending applications.

3. The rules adopted in the *Report and Order* limit low power stations to ten watts power on VHF channels and 1,000 watts on UHF channels. Stations may operate on any VHF or UHF channel meeting the desired-to-undesired signal ratios specified in the new rules. These contour overlap engineering standards are designed to ensure that the secondary spectrum priority of low power stations is strictly maintained. Secondary status means that low power stations may not create objectionable interference to full service television stations nor to land mobile radio stations operating on UHF Channels 14 through 20 pursuant to the Commission's sharing scheme. A low power station causing interference to a full service station or a protected land mobile station must correct the problem or cease operation. The Commission also adopted automated engineering standards for low power applications processing.

4. The low power service, as established in the *Report and Order*, is subject to minimum regulation. There are no ownership restrictions, ascertainment or program log requirements, minimum hours of operation or program regulations, other than those imposed by statute. The Commission also declined to impose a requirement that cable systems carry the signals of low power stations. The cable carriage requirement had been imposed for certain traditional translator stations, because they were considered to be extensions of full power local stations in their area. However, mandatory cable carriage would not be warranted for low power stations, since they have no local programming requirement. To authorize new stations in this service, the Commission established a curtailed paper hearing process. Only minority ownership and diversity of control of the media were to be considered in the comparative hearing.[3]

5. The petitions for reconsideration and/or clarification of the *Report and Order* raise a broad range of issues concerning the implementation of the low power television service. Petitioners take issue with the establishment of comparative criteria to resolve mutually exclusive applications for low power stations. Various petitioners argue for the addition and/or deletion of comparative criteria established in the *Report and Order*. Noncommerical broadcasting petitioners request the reservation of channels for public television stations and an interference priority for public broadcasters on reserved channels that are available for low power use.

6. Some petitioners request changes in the Commission's allocation criteria for the service, including consideration of terrain shielding, changes in channel spacing requirements, power limits and methods of calculating contours. The petitions also raise the issue of sharing low power spectrum with land mobile

[1] The petitions are as follows: (1) Petition for Partial Reconsideration filed by American Women in Radio and Television, Inc. (AWRT); (2) Petition for Partial Reconsideration filed by Bogner Broadcast Equipment Corp. (Bogner); (3) Petition for Reconsideration filed by the Corporation for Public Broadcasting (CPB); (4) Petition for Reconsideration filed by Dick Dowart; (5) International Broadcasting Network's (IBN) Petition for Reconsideration; (6) A document entitled "Comments of Law Enforcement Administrators Telecommunications Advisory Committee" (LEATAC); (7) Los Angeles County Sheriff Department's Petition for Reconsideration (LA Sheriff) and "Additional Comments to the Previously filed Petition for Reconsideration" filed by the LA Sheriff; (8) Petition for Reconsideration filed by Microband Corporation of America (Microband); (9) Petition for Partial Reconsideration filed by the National Association of Broadcasters (NAB); (10) Petition for Reconsideration filed by the National Association of Public Television Stations (NAPTS); (11) Petition for Reconsideration filed by Neighborhood TV Company; (12) Petition for Reconsideration filed by the National Translator Association (NTA); (13) Petition for Reconsideration filed by the Rocky Mountain Corporation for Public Broadcasting; and (14) Petition for Reconsideration filed by the Television Center, Inc. (TV Center).

[2] A list of all such pleadings is attached as Appendix A.

[3] The Commission also indicated its intention to utilize a lottery for low power proceedings if such a procedure was permitted by amendment to the Communications Act. The Communications Amendments Act of 1982 (Pub. L. 97-259), enacted September 13, 1982, included authority to utilize lotteries with preferences for minority ownership and diversity. To implement this legislation, the Commission adopted a *Second Notice of Proposed Rule Making* in Gen. Docket No. 81-768, FCC 82-420, adopted September 23, 1982, released October 7, 1982.

communcations uses. Other technical matters raised in various pleadings include the imposition of operator requirements on low power stations and limitations on interference caused to cable systems and Multipoint Distribution Service (MDS) stations. Issues of retransmission consent and mandatory cable carriage were also raised. With regard to the processing of low power applications, petitioners raised questions concerning the freeze on applications and the interim processing of those requests. Petitioners also asked for changes in the handling of amendments to low power applications that constitute major modifications, and they make suggestions on the format of new and renewal application forms for the low power service.

7. The various petitions, oppositions, comments and replies will be treated herein on an issue-by-issue basis. Moreover, as appropriate, this *Order* will effectuate various rule and form changes that are warranted, as a result of the pleadings before us and our own review of and experience with the *Report and Order*.

Comparative Criteria

8. The *Report and Order* stated that we hoped to have statutory authorization to use a lottery procedure in lieu of comparative hearings to resolve mutually exclusive low power TV applications. However, at the time, we had no lottery procedures, and the *Report and Order* devised hearing procedures and comparative preferences for use in low power TV cases. Lotteries were not yet authorized at the time the Petitions for Reconsideration were filed, but such procedures are now permitted, and the Commission has today concluded a rule making to implement them.[4] In this context, we need only briefly describe the comparative procedures established in the *Report and Order* and the related arguments on reconsideration.

9. When necessary, the hearings contemplated in the *Report and Order* were to be conducted largely on paper, with prehearing discovery conducted or oral testimony taken only when the Administrative Law Judge deemed it necessary. The comparative criteria adopted in the *Report and Order* were (1) diversification of control of the media of mass communications and (2) over fifty percent minority ownership.

10. NAB argues that the *Notice of Proposed Rule Making*, 45 FR 69178 (October 17, 1980), did not give adequate notice that diversification of control was being considered as a comparative factor or that encouraging new entrants was a primary goal of the authorization process. CPB and IBN argue that the *Notice* indicated that the Commission would award a preference for noncommerical applicants, but the Commission failed to alert parties that it might retreat from that position, as we did in the *Report and Order*. AWRT requests inclusion of a comparative preference for applicants that are over 50 percent female owned, and Dick Dowart requests inclusion of a preference for the handicapped.

11. The Administrative Procedure Act requires notice of "the terms or substance of the proposed rule or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3). Notice need only be sufficient to apprise interested parties fairly of the issues involved, and promulgation of a rule different from an original proposal does not necessitate the opportunity for further comment, so long as the rule is a logical outgrowth of the notice and comments. *Consolidation Coal Co.* v. *Costle*, 604 F. 2d 239, 248 (4th Cir. 1979); *BASF Wyandotte Corp.* v. *Costle*, 598 F. 2d 637 (1st Cir. 1979). In our *Notice of Proposed Rule Making, supra*, at 69189, we stated:

> We note that our staff recommended the three criteria as a 'first draft' set of preferences, and propose them in that spirit. We shall carefully consider comments that advance other approaches to the comparative process.

Thus, our actions with regard to comparative preferences were within the scope of the *Notice* or a logical outgrowth of the *Notice*.

12. The petitions requesting the inclusion or exclusion of individual comparative preferences are affected by the legislation authorizing the lottery.[5] Congress expressed its "intention and expectation" that the lottery be used for low power television and specified that the two preferences of diversification and minority ownership be used. *See* H. Rep. No. 97-765. Furthermore, Congress in 309(1)(3)(c)(ii) defines "minority group" as "Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders." We have adopted rules to implement a lottery procedure for LPTV in our action today in Gen. Docket No. 81-768. See *Report and Order* in Gen. Docket 81-768, adopted March 9, 1983, 48 FR —. Thus, AWRT's petition advocating a preference for female ownership, Dick Dowart's petition advocating a preference for the handicapped, NAB's petition objecting to the diversity preference, those portions of the CPB and IBN petitions advocating a noncommercial preference and IBN's request that we clarify the definition of minority ownership in the case of a non-profit entity will be denied. Comparative preferences and definitions have been established in the lottery proceeding.[6]

Noncommercial Channel Reservation

13. Low power channels are allocated on a demand basis. There is no table of allotments, and no channels are reserved for noncommercial low power use. Applicants simply select a vacant channel and provide an engineering showing that the proposed facility will not cause objectionable interference. In the *Report and Order* we eliminated the preference for educational rebroadcast on reserved channels which previously had given noncommericial translators an absolute priority over commercial translators on channels reserved for full power noncommercial applicants.

14. CPB requests that the Commission reconsider and reserve channels for noncommercial applicants in the top 100 markets. CPB claims that the Commission's records do not support the conclusion that there are adequate vacant noncommercial channels in these markets. Rather a table would provide noncommercial educational applicants sufficient time to prepare their applications. CPB proposes that the table self-retiring after 3 or 4 years. In the alternative, CPB suggests that the Commission suspend all "A" list cut-off dates set during the proceeding to provide potential noncommercial licensees with the opportunity to organize and prepare applications for filing.

15. NAPTS and Rocky Mountain request a priority with respect to interference protection for noncommercial operators on channels listed in the Television Table of Assignments reserved for noncommercial use. NAPTS alleges that a commercial operator can preclude a low power noncommercial operator on a reserved channel. NAPTS claims this

[4] *Report and Order* in Gen. Docket No. 81-768, FCC 83—, adopted March 9, 1983.

[5] The Communications Amendments Act of 1982, Pub. L. 97-259, Section 115, enacted September 13, 1982, amended Section 309(i) of the Communications Act of 1934, as amended, 47 U.S.C. 309(i).

[6] The IBN petition correctly points out that an applicant that has received a grant through the lottery procedure would suffer a diversity disadvantage in all subsequent lotteries. Thus, it may be possible that an applicant would be at at disadvantage for its first choice facility by virtue of succeeding in the lottery for some other lower choice station. Of course, the applicant could resolve this dilemma by withdrawing its application from consideration in the "less desirable" lottery.

frustrates the Congressional mandate to make public telecommunications services available to all citizens of the United States, in that it will make it more difficult for public television operators to expand service to remote areas through the use of translators. NAPTS also complains that the Commission's action will inhibit the use of existing reserved channels to initiate service with low power stations and develop them into full service stations as additional support becomes available. Rocky Mountain argues that unless the Commission affords noncommercial translators and low power stations a priority on channels reserved for noncommercial use, they will not be able to get funding. It takes exception to the Commission's reasoning, *i.e.*, that noncommercial channels are still reserved for full service use and that noncommercial stations can engage in revenue producing activities. Rocky Mountain asserts that there is no justification or support for fulltime noncommercial stations in Rocky Mountain's area, and many noncommercial licensees choose not to engage in revenue producing activities.

16. We continue to believe that channel reservation is not feasible in a demand service such as low power television. Furthermore, the reasoning that channels must be reserved in order to give noncommercial applicants time to get financing overlooks the relatively low cost of the stations. Therefore, we reject CPB's suggestion that we create reserved noncommercial low power television channels in the top 100 markets. We similarly are not persuaded that it would be in the public interest to give an interference protection priority to educational translators or low power stations that use unoccupied channels reserved for full power noncommercial operation. Such a priority would unnecessarily complicate the engineering determinations that have to be made in the processing of low power and translator applications. More importantly, it would put commercial low power applicants at a distinct disadvantage, having to protect noncommercial operators on reserved channels, but accepting interference from such operations under certain circumstances. We can think of no public interest benefit that would justify the added work to the Commission and the cost to commercial operators. Of course, all low power and translator operations on reserved or unreserved channels remain secondary to and must protect full service operations on those channels.

17. The Commission has previously denied a petition for reconsideration [7] and a Motion for Stay of Interim Processing [8] relating to CPB's suggestion that, as an alternative to reserved channels, we suspend all "A" list cut-off dates set during the proceeding to provide noncommercial applicants an opportunity to organize and prepare applications for filing. In our *Order* denying the Motion for Stay, we noted that our application procedures required only that a financial proposal be submitted, not that an actual funding grant be approved. Therefore, we did not believe that noncommercial applicants were so disadvantaged as to require suspension of the "A" cut-off dates. As previously indicated, the relatively low cost of effectuating the low power service would indicate that any special considerations for noncommerical operations were unnecessary. Indeed, as we have previously pointed out, several noncommercial applicants managed to meet the cut-off date indicating that noncommercial applicants had sufficient time.

Technical Issues

18. Petitioners raised various technical questions ranging from the allocation of spectrum for LPTV on a shared basis to the requirements for technical expertise in the operation of LPTV stations. Those issues will be considered herein seriatim.

Spectrum Sharing

19. Low power and translator applicants may select any channel between 2 and 69, subject to our technical rules including protection to land mobile stations that share frequencies with broadcast users. The LA Sheriff's Department has filed a rule making petition (RM–3975) requesting creation of a public safety band between 470 and 512 MHz (UHF Channels 14–20). Presently, Channels 14–20 are shared by broadcasting and land mobile radio services. *Second Report and Order*, Docket No. 18261, 30 F.C.C. 2d 221 (1971); *Fifth Report and Order*, Docket No. 18261, 48 F.C.C. 2d 360 (1974).

20. The LA sheriff requests that we defer any licensing on television Channels 14 through 20 until the study period set forth in PR Docket No. 82–10 is completed and its recommendations acted upon.[9] The Sheriff states there is a significant need for land mobile frequencies as evidenced by current applications and the rapid depletion of the 800 MHz allocation and claims that if low power television stations are granted on Channels 14–20, it will be difficult to reallocate this portion of the spectrum to land mobile. APCO urges that the Commission amend the rules in the low power proceeding to prohibit licensing of low power stations until full consideration is given to the issues raised in RM–3975 and PR Docket No. 82–10. APCO states that the Commission's primary obligation to promote safety of life and property through the use of wire and radio communications requires this action.

21. We are not persuaded that we should withhold Channels 14–20 from low power television at this time. The *Interim Report* did predict increasing spectrum needs for land mobile uses. It noted, however, that new technologies exist that may alleviate this scarcity. The Commission will continue to study land mobile needs and the Sheriff's petition for rule making (RM–3975) noted *supra*. The question in RM–3975 is how the spectrum should be allocated as between broadcasting (including full power as well as low power stations) and land mobile. If those channels are allocated to land mobile, the allocation of new full power as well as new and existing low power stations would be affected. Low power stations, being secondary, are on notice that their use may be preempted by that action. Licensing low power stations on these channels will not prejudice the rule making or the studies in Docket No. 82–10. Therefore, we will deny the Sheriff's petition. Similarly, we do not believe this is the proper forum to act on NTA's suggestion that land mobile should be removed from this portion of the spectrum entirely. Eliminating such sharing would involve spectrum allocation decisions beyond the scope of this proceeding. However, it is our intention to continue the procedure, instituted in the *Report and Order*, whereby all low power TV grants within 100 miles of the ten largest U.S. cities (120 miles in California) are coordinated by the Mass Media Bureau and the

[7] *Memorandum Opinion and Order*, FCC 81–15, 47 FR 28714, released January 16, 1981.

[8] *Order* denying motion for stay, FCC 81–52, released February 6, 1981; see also *Little Rock Television Company* v. *FCC*, 646 F. 2d 1271 (8th Cir. 1981) (*per curiam*).

[9] In September, 1982, the Planning Staff of the Private Radio Bureau released its *Interim Report on Future Private Land Mobile Telecommunications Requirements (Interim Report)*. This report was the culmination of a proceeding, instituted by a January 26, 1982, *Notice of Inquiry*, designated PR Docket No. 82–10. Also the Commission's staff has completed another study announced in our *Report and Order* to determine the possibility of broadcast-land mobile sharing in major urban markets. *Report and Order* at 21479.

Private Radio Bureau. In this manner, we can assure that new low power stations will not unduly foreclose the Commission's options in Gen. Docket No. 82–10. This course of action will be revisited, as appropriate, after Commission action in that proceeding. In the interim, we do not believe that the coordination process will unduly impede low power TV service.

Power, Protected Contours and Terrain Shielding

22. Low power stations and translators must protect existing stations from interference. They are limited in transmitter power output to 10 watts VHF and 1,000 watts UHF. VHF stations operating on channels in the Television Table of Assignments may use 100 watts. Applicants must make a showing that their proposed facility will not cause objectionable interference. The potential for such interference is predicted using desired-to-undesired (D/U) field strength ratios set forth in the *Report and Order*. We therein declined to consider terrain shielding in determining interference protection.

23. IBN claims that the protected contour values set forth in the rules are too high and that the power limits, particularly the limitation on the output power of VHF transmitters, are too low. NTA asks that we consider terrain shielding. NTA claims that the Commission staff would not be overburdened if it: (1) Required the applicant to make a terain shielding showing and notify other licensees or applicants that terrain shielding is a factor in interference protection and (2) conditioned the grant on the accuracy of the shielding study.

24. IBN has provided no information to establish that our protected contour values are too high or that the power limits are too low. Rather, IBN has simply expressed disagreement with our judgment. The power limits and protected contours established in the *Report and Order* were designed to provide low power stations with service areas that would be large enough to provide a potentially adequate economic base for the station's viability, but not so large as to overly restrict the number of stations we could authorize. Thus, the limits were set to provide the opportunity for the best and most diverse service to the public with the minimum of delays occassioned by the need to resolve mutual exclusivities. IBN has failed to allege any facts which would alter the balance thus struck in the *Report and Order*.

25. As to protection to full service stations, the *Report and Order* stated that if we were to "receive a well documented complaint that an authorized low power station impairs regular reception of a full service signal outside the full service station's Grade B contour, this could be a ground for corrective action against the low power licensee, depending upon an evaluation of the situation." *Report and Order, supra* at 21497. However, we also indicated that, generally, we would use the Grade B contour as the standard for protected service. Thus, interference beyond the protected contour would not constitute an indirect modification of license of the full service station, entitling it to a hearing under Section 316 of the Communications Act.[10] Nevertheless, a full service station complaining of interference would be a party in interest under Section 309 of the Communications Act [11] entitled to file a Petition to Deny substantiating the alleged harm.

26. We do not believe that we can consider terrain shielding in evaluating low power applications. Initially, we note that there is no universally accepted method of predicting the effects of terrain shielding. It would be beyond the scope of this proceeding to adopt a general terrain correction factor, even if we had sufficient information to enable us to do so. Under these circumstances, any attempt to allow for terrain shielding would embroil us in disputes that may not be susceptible to resolution by accepted standards and would therefore frustrate our efforts to expedite grant of low power licenses. Accordingly, we will not consider terrain shielding in the processing of low power TV applications at this time.

Fourteen Channel Spacing.

27. In our *Report and Order* we prohibited pairs of co-located translators or low power television stations from operating with fourteen channel spacing. NTA argues that the Commission should allow fourteen channel spacing between low power stations and asserts that a number of translators operate on such spacing. We are not persuaded that the prohibition of fourteen channel spacing shoud be eliminated. To avoid interference, fourteen channel spacing requires not only that the stations are authorized to radiate essentially the same field strength, but also that the stations must be maintained equally. If stations are commonly owned, they are likely to interfere only with each other. Nevertheless, we believe it more appropriate to prohibit fourteen channel spacing at this time. Our experience with low power TV indicates that efficient authorization of new service to the public requires automated processing. Fourteen channel spacing for co-owned stations would be incompatible with out automated technical processing. Of course, such applications could be processed by hand, but we do not believe that the benefits of fourteen channel spacing outweigh the cost of hand processing in terms of delays in authorization of service to the public. Therefore, at this time, we will not permit operation of new translators or low power stations at fourteen channel spacing.

Operator Requirements

28. In our *Report and Order*, at 21490, we stated that we believe that Section 318 of the Communication Act requires that all originating stations have an operator holding at least a Restricted Radio Telephone Operator's Permit in continuous attendance during local originations. The operator must be at the transmitter site, remote control point or program source. During retransmissions via microwave, the operator requirement can be fulfilled by observing the low power station signal on a conventional receiver for fourteen continuous minutes each day. See § 74.734(b). IBN seeks clarification of the requirement, arguing that the rules should not require the presence of a licensed operator during retransmission of microwave fed signals, including those received via satellite, or during the insertion of a brief station identification or public service announcement.

29. *The Report and Order in Docket No. 20539*, 67 F.C.C. 2d 209 (1977) made it clear that television translator stations could use a satellite or terrestrial common carrier microwave feed provided that the translator station remained a rebroadcast device. Therefore, using such a feed would not, under our current rules, constitute program origination if the receiving station merely used the feed to enable it to rebroadcast simultaneously a television broadcast station. Section 74.784(a) and (c). Any programming received from microwave fed signals (including signals from a satellite) other than simultaneous rebroadcast of a television broadcast station would be

[10] Section 316 of the Communications Act requires the Commission to notify and to provide the opportunity for a hearing to any station the license of which is being modified directly or indirectly. See *NBC* v. *FCC (KOA)*, 132 F 2d 545 (1942), *aff'd*, 319 U.S. 239 (1943); *L.B. Wilson, Inc.* v. *FCC*, 170 F. 2d 793 (1948).

[11] Section 309 of the Communications Act allows parties in interest to file petitions to deny. Such petitions must contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that grant of the application would not be in the public interest.

considered local origination under our current rules. However, we do not believe it should be considered local origination for purposes of the operator requirements. We do not consider it necessary for an operator to be in attendance unless the program source signal is under the control of the licensee. Therefore, we are amending § 74.701 to define local origination as those types of program origination in which the parameters of the program source signal are under the control of the low power television station licensee. Examples of local origination are transmission of signals generated at the transmitter site and transmission of programs reaching the transmitter site by television studio transmitter link (STL) stations. However, "origination" does not include signals obtained from terrestrial or satellite common carrier microwave feeds or signals rebroadcast from other low power television stations. See Appendix B.

30. Moreover, according to § 74.731(f), station identification announcements, emergency messages or requests for funds are not considered originated programs, provided such inserts meet the requirements of § 74.731(f) (in the case of requests for funds or emergency messages), or § 74.783 (in the case of station identification). Furthermore, we believe that public service announcements should not constitute local origination within the scope of § 74.701(g), so long as such announcements conform to the requirements of § 74.731(f). Therefore, we shall amend the rules accordingly.

Interference Protection

31. Various petitions have raised issues concerning the potential interference from low power stations to cable television systems and Multipoint Distribution Systems (MDS). With regard to cable systems, § 74.703(d) of the Commission's rules establishes a "first in time, first in right" policy. NTA urges elimination of the prohibition imposed by § 74.703(d). Petitioner argues that the requirement that low power television stations provide protection to CATV systems using a VHF channel as the input from a set-top converter to the TV set is unexpected and is in conflict with the Commission's policy of permitting cable's use of the spectrum based on non-preclusion of broadcast use. NTA also asserts that the policy is unnecessary since the prohibition on adjacent channel over the air transmissions would always leave a channel open for CATV use.

32. NTA has failed to provide any reason that the Commission should reconsider the "first in time, first in right" policy in cases of interference at the input channel of a cable system using a converter. Contrary to NTA's assertion, this rule should not have been unexpected and does not conflict with the Commission's policy of permitting cable's use of the spectrum based on its non-preclusion of broadcast use. Based on that policy, we denied requests from cable operators that we limit low power television to the UHF frequencies and, in general, denied formal protection to cable systems. *Report and Order*, paragraphs 43 and 45. We noted, however, that in the case of the input channel of a cable system using a converter, the preclusive effect would be minimal ("foreclosing at most one VHF channel from local use by translators or low power stations" *Report and Order*, at 21479). We stated that it is in the public interest to protect the expectation of continued service instead of permitting its degradation by a later applicant. *Id.* Moreover, the issue of cable/low power interference was raised in our *Notice of Proposed Rule Making*. Thus, the adopted rule stems logically from the *Notice*. *See BASF Wyandotte Corp.* v. *Costle, supra*. In view of the above, the portion of NTA's petition requesting reconsideration of § 74.703(d) is denied.

33. MDS stations also use a VHF channel input from their converter to a subscriber's set, but the *Report and Order* accorded no protection from LPTV stations. Microband requests that the Commission provide MDS the same "first in time, first in right" protection from interference from low power television that it provides for cable. We believe that MDS operators, like cable operators, should settle most interference disputes privately. However, in the case of an input channel already in use by an MDS operator, it would be in the public interest to protect the expectation of continued service rather than allow degradation by a later applicant. This would be consistent with the protection afforded cable. Therefore, we will grant Microband's petition and amend § 74.703(d) to include this protection. Moreover, the same situation could exist with regard to an input channel used by stations in the Instructional Television Fixed Service (ITFS), and we will afford similar protection to those licensees. See Appendix B.

Retransmission Consent and Cable Carriage

34. Low power stations are permitted to originate programming to an unlimited degree, but are not required to originate any programming. Thus, LPTV stations may retransmit the programming of other stations, provided they have consent to do so. IBN and NTA ask that we specifically permit translator stations to retransmit the programming of low power stations. Since translator stations have no programming requirements, they are free to retransmit a low power station's programming provided they have the appropriate consent to do so.[12] However, any TV translator rebroadcasting the signal of a low power TV station would itself be considered a low power station for the purposes of the rules.

35. Under the present rules, cable systems must carry certain local full service stations, commercial translators over 100 watts and educational translators over 5 watts within a 35-mile radius of the cable system. *See* §§ 76.55(c) (1) and (2); 76.57(a)(2); 76.59(a)(5); and 76.61(a)(3). In our *Report and Order* we declined to extend the mandatory carriage to low power television stations. IBN and NTA request that the Commission apply its cable "must carry" rules to low power television claiming that unless cable carries low power stations they will not be able to compete with those stations that are carried. The rules which require the mandatory carriage of local stations by cable systems were designed to further the goals of our allocation plan, which, in turn, was designed to provide local television service to the entire country. *Cable Television Report and Order*, 36 F.C.C. 2d 143, 173 (1972). At that time, translators were considered extensions of local stations in the same area. Thus, certain translators were entitled to mandatory carriage. On the other hand, low power stations are not extensions of nearby full service stations; they are not part of the allocations plan, and they have no programming requirements. Thus, there is no reason to require carriage by cable systems. Under these circumstances, we believe the marketplace is the appropriate vehicle for determining whether a cable system would select a low power station for carriage.

Processing Issues

36. In September, 1980, the Commission established procedures for handling translator and low power television applications pending the outcome of the rule making. *Notice of Interim Processing*, 45 FR 62004 (published September 17, 1980). In April of 1981, with approximately 5,000

[12] We are simultaneously amending our operator requirements to make clear that retransmission of low power stations will not be considered local origination for purposes of the rules.

applications on file, and with insufficient staff and computer capability to handle them, the Commission stopped accepting new applications except: existing translators seeking to leave channels 70 through 83; existing translators seeking to change channels to eliminate interference to full service stations; or new proposals to serve areas currently receiving fewer than two full service stations. *Order Imposing Freeze*, 46 FR 26062 (published May 11, 1981).

37. When we adopted the *Report and Order*, we did not lift the freeze, but we did change the freeze exemptions slightly. Applications were grouped into categories by market size. Those applicants proposing to locate their transmitting antennas more than 55 miles from any of the 212 FCC-ranked television market were placed in Tier I and are now freeze exempt. The freeze exemption for proposals to serve areas currently receiving fewer than two full service stations was eliminated. Applicants other than those in Tier I were grouped in Tiers II and III by market size. Under the tiered system, processing of the first tier must be completed before processing of the second tier begins, and so on.[13] The freeze would be lifted only for the limited purpose of receiving competing applications to the applications published on cut-off lists.

38. NTA argues that the Commission should reconsider its decision to use the three-tier processing plan. NTA proposes that we permit the continued filing and processing of applications which propose to serve areas that receive fewer than two full-service stations. Our tiered processing is designed to minimize the impact of low power applications on Commission resources and speed implementation of new service. The "less than two station" exemption had the potential to strain our resources and delay authorizations because it required an individualized engineering judgment for each application claiming this exemption. Our new standard identifies the most rural markets, which include most underserved areas. This standard can be handled by computer, thus minimizing delays in authorization. Therefore, we will deny that portion of NTA's request to reinstate our freeze exemption for areas with fewer than two full service stations.[14]

Interim Processing

39. The interim processing rules provided for the consideration and grant of low power applications during the pendency of the rule making. Neighborhood urges the Commission to reject the principle of interim processing and declare that only those low power applications filed after the effective date of the new rules will be accepted against a translator application that would ordinarily have been granted before the authorization of low power service. Neighborhood claims that the practice of accepting applications before adoption of the *Report and Order* prejudged the issue and delayed grant of Neighborhood's applications for translator stations to be interconnected by satellite.

40. The Commission has previously considered petitions for reconsideration of the interim processing procedure. *Memorandum Opinion and Order*, 84 F.C.C. 2d 713 (1981). There, we thoroughly discussed the propriety of our interim processing standards. We concluded that a freeze on translator applications would deprive the public of needed service, but to accept only conventional translator applications with no waiver requests would invite abuse in that applicants desiring low power service could apply for a translator and upgrade later. We also noted that the exposure to the interim applications would enhance our ability to respond to the issues raised in the low power proceeding, and similar interim procedures had been approved. *Kessler* v. *F.C.C.*, 326 F. 2d 673 (D.C. Cir. 1963), *Buckeye Cablevision* v. *F.C.C.*, 438 F. 2d 948 (6th Cir. 1971), and *Meredith Broadcasting* v. *F.C.C.*, 365 F. 2d 912 (D.C. Cir. 1966).

41. Neighborhood claims the low power interim policy differed from other interim procedures in other services. We do not find this argument persuasive. Interim procedures must differ somewhat due to many factors, including differences in the service involved. Neighborhood also complains about our refusal to reconsider the 15 station limit in our *Memorandum Opinion and Order*, FCC 81-175, released June 25, 1981. Petitioner claims this limit was imposed to stall its attempt to form a new network. The 15 station limit was necessary to maintain our flexibility during the pendency of the rule making. The interim standard would permit the possible adoption of ownership limits without substantial grandfathering problems engendered by interim processing without ownership limits. Thus, the interim limit was eliminated when we determined not to impose ownership rules.

42. Neighborhood also argues that the Commission wrongfully prejudged low power, and the Commission should help Neighborhood create its new network of "family" programming. However, it is clear that this proceeding was not prejudged. The *Report and Order* provides ample reason for creation of the serice and is not dependent on the existence of low power stations authorized under the interim process, and the *Notice* clearly alerted applicants that their grants were conditioned upon final authorization of low power television. Moreover, there is no basis for preferring Neighborhood's programming proposals over any others. The *Report and Order*, imposed minimum of program content regulations on low power television stations so that they may be responsive to marketplace conditions. *Report and Order*, at 21490. Since we favor no particular programming, we cannot favor Neighborhood's plan over other proposals.

Major Modifications

43. The *Report and Order* classified any change in frequency, transmitting antenna system, antenna height, antenna location exceeding 200 meters, authorized power, or community or area to be served as a major change for translators or low power television stations. Moreover, the *Report and Order* indicated that an ownership change would not constitute a major modification. A major change sends an application back to the beginning of the processing line where it is again subject to competing applications.

44. Several petitioners, including Bogner, NTA and Television Center, request reconsideration of the criteria for a major change. Television Center claims that the criteria encompass many routine changes that will not affect other parties, and they will prevent settlements by penalizing small technical changes. Television Center argues that the major modification standard will not motivate applicants to make small changes to correct mutual exclusivities. Bogner claims that unless the major change definition is changed, petitions to deny will be filed against maintenance type changes. Bogner argues that existing translator stations which fall within Tiers II and III would be precluded from making such improvements for a lengthy period. NTA

[13] However, applications that were accepted before the freeze and were cut off, will be processed with Tier I applications, even though they may now be classified as Tier II or III.

[14] In the *Report and Order* we stated that we did not intend to issue any further cut-off lists until we processed all pending applications for low power stations. However, completion of the processing of the pending applications will require the services of a sophisticated computer system which we are in the process of implementing. In the interim, we will be issuing new cut-off lists as appropriate.

also argues that the definition should be changed to accommodate those with a legitimate need to make a change.

45. NTA suggests that the following not be major changes: any change to resolve interference, a change in location because of non-availability of the specified site, a reduction in antenna height or effective radiated power (ERP), or an increase in ERP if protection standards are met. Television Center proposes that the Commission treat as major only modifications in the transmitter location greater than three kilometers. According to Television Center's plan, minor changes could be approved only after 30 days notice and the opportunity for petitions to deny. Bogner suggests that we treat modifications of facilities that would not increase the signal range of the station in any horizontal direction as minor.

46. Upon reconsideration, we believe that classification of modifications that would not increase the signal range in any horizontal direction as minor would facilitate maintenance type changes and changes to eliminate interference without creating new interference or preclusion. Therefore, we are adopting Bogner's suggestion. Section 73.3572 of the Commission's Rules is amended accordingly. The remaining requested changes might permit additional preclusion or cause actual interference, due to local factors, even though applications for such changes might meet our general protection standards. *See Report and Order, Supra* at 21475. Although Television Center's suggested 30 day notice provision would deal with the problem of actual interference, it would also delay changes that wouldn't create a problem. Accordingly, we will deny those requests for reconsideration.

47. We also believe that the implementation of the lottery requires alteration of our view of ownership changes. We can no longer ignore changes of more than 50% of an applicant's ownership. Particularly where such changes could affect the applicants' lottery preference. Thus § 73.3572(b) of the rules will govern ownership changes for low power applicants. We are also amending § 74.732(d) of the rules to make it clear that major modifications will require a new cut-off list and afford an opportunity for the filing of competing applications. See Appendix B.

Renewal Form

48. The *Report and Order* indicated the Commission's intent to use an abbreviated license renewal application form for translator and low power television licensees. To this end, the current translator renewal form (FCC Form 348) has been streamlined in conformity with the Commission's actions regarding full service stations. See *Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees*, FCC 81-146, 46 FR 26236, published May 11, 1981, reconsideration denied, 87 F.C.C. 2d 1127. A sample of the revised FCC Form 348 is attached as Appendix C. We have decided not to include any engineering questions in the revised form. Rather than routinely requiring the submission of engineering data at renewal time, the Commission believes—as in the case of full service stations—that operation in full compliance with our engineering requirements can be ensured through the on-site monitoring program administered by the Field Operations Bureau and through reliance upon the participation of the public and affected licensees in promptly bringing serious infractions of our technical rules to the Commission's attention. Moreover, certain questions that have yielded only marginally useful information have been deleted. These include, Question 6, Section I and Questions 7, 8, 10 and 11, Section II of former Form 348. Pursuant to our earlier decision not to impose restraints on cable/translator cross ownership, former Question 9, Section I, is no longer necessary. Finally, former Questions 1 and 9 of Section II have been combined into a single, optional question and Questions 3, 7 and 8 of Section I have been revised to parallel the litigation and citizenship questions asked of renewal applicants of full service stations, *e.g.*, Questions 2 and 3, Section II, FCC Form 303-C. See Appendix C.

Voluntary Assignment or Transfer of Control Application

49. To minimize the number of forms necessary to the new service, we have revised the present FCC Form 345 "Assignment of Translator Stations" to include applications for transfer of control, which are presently filed on FCC Form 315 "Transfer of Control. See Appendix D. The retitled Form 345, "Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station or a Low Power Television Station," should also be used for any associated auxiliary stations, such as translator microwave relay stations and UHF translator booster stations. Revised FCC Form 345 should not be used to request approval of the assignment or transfer of any other type of broadcast station. If a licensee or permittee of a full service station is also selling its translator or auxiliary authorizations along with its primary station, it should utilize the FCC Form 314, 315 or 316 filed for the primary station. In the case of an involuntary assignment or transfer of control of a translator or low power television station, FCC Form 316 may still be used. We have made editorial changes to § 73.3540, Application for voluntary assignment or transfer of control, to reflect the revision of Form 345. See Appendix B.

Other Matters

50. Our consideration of the petitions dealt with herein caused us to carefully review our *Report and Order* establishing the low power TV service. As a result of that review, our experiences in processing low power applications and the problems encountered in setting up the automated system for future processing, we have determined that several modifications to the low power rules are necessary. These modifications, based on the entire record to date, will facilitate the rapid implementation of the low power service and the ability of low power stations to provide television service to the public. The rule changes discussed below are reflected, as appropriate, in Appendix B.

51. At paragraph 47 of the *Report and Order*, we addressed the eligibility of low power TV licensees for licenses in the various classes of auxiliary stations used to originate and/or relay programs from remote sites. However, § 74.632 of the rules was not amended to reflect the eligibility of low power licensees as discussed in paragraph 47. This oversight is corrected herein by appropriate amendments to § 74.632 (a) and (e) to reflect the eligibility of low power licensees. See Appendix B.

52. Pursuant to our review of the comments, we discovered that various of the Commission's administrative "housekeeping" rules, included in subpart H of Part 73 of our rules, and presently applicable to all conventional broadcast services, are also relevant to the low power television service. The subjects of these rules range from where to file applications (§ 73.3572) to the requirements for special field test authorizations (§ 73.1515). Application of these rules to the low power TV service would add no regulatory burden to applicants or licensees but merely would formally apply practices and procedures to the low power service that are presently being followed in broadcast practice and rules. Some rules only partially apply to the low power service and, consequently, only the relevant subsections of those rules have

been made applicable.[15] Additionally, we have made applicable § 73.653, Operation of TV aural and visual transmitters, which provides that TV aural and visual transmitters shall not be operated separately except in limited situations.

53. We also have found that other existing full service and low power TV rules are inadequate to resolve specific conditions or situations unique to the newer service and, therefore, some rules must be amended. For example, we believe that the protection criterion for full service television, the Grade B contour as defined in § 73.683 and applied to the low power service in § 74.705, is inadequate to forestall the potential interference to full service TV from the new service. Rather than establishing a new contour value for protection of full service television, a more realistic protection contour could be established by using the maximum radiation value and the horizontal radiation pattern in calculating the Grade B contour instead of taking into account the depression angle corrections as specified in § 73.684 of Part 73. This should help ensure that no interference should occur from low power to areas receiving the prescribed signal level for Grade B. (Ch 2–6, 47 dbu; Ch 7–13, 56 dbu; and Ch 14–69, 64 dbu). Therefore, we are amending § 74.705 to reflect the new protection standard.[16]

54. Further, prior to the adoption of the protected contour concept for LPTV and TV translators, our interference determinations were made on a case-by-case basis. However, with the adoption of the new rules, and considering that we currently have over 8000 applications pending, we can no longer use this technique. Instead, we must perform detailed studies that involve determinations of the exact locations of predicted protected and interfering contours. In our work since the *Report and Order* was adopted, we have discovered that we have particular problems in acquiring sufficient data for those existing and proposed conventional translator and low power television operations with directional antennas. We have concluded that the existing rules [subsections (e) and (f) of § 73.685] are not sufficient for these new requirements, although they have served admirably in the context of minimum distance separations and the Table of Assignments. Therefore, we are adopting specific requirements concerning the information which must be submitted by applicants proposing directional antennas. These requirements apply to full service applicants as well, because we need to determine the location of the protected contours of full service stations as well as those for LPTV and TV translator operations. We note that we are in the process of requesting this information from many existing licensees and permittees. Therefore, we are amending § 73.685 for full service and § 74.735 to specify that the required data be properly filed.

55. Finally, despite two previous concerted attempts, we have encountered serious difficulty in obtaining necesssary technical data pertaining to existing translator licensees and permittees. This information, required to ascertain the protected contours of existing licensees, is an essential, preliminary step to the further allocation by computer processing of new low power and television translator stations. Due to the absolute necessity of determining protected contours for existing licensees and permittees, we have amended § 74.707(a)(1) of the Rules by adding a note establishing specified mileage contours, relating to authorized power, for translator licensees and permittees which have not heretofore submitted this data in response to our repeated requests.

Conclusion

56. Accordingly, it is ordered, That the Motion of CPBC to accept its late filed reply is granted.

57. It is further ordered, That the petition filed by LEATAC is dismissed for failure to comply with § 1.429(h) of the Commission's rules.[17]

58. It is also ordered, That the petitions of AWRT, Dowart, NAB, CPB, NTA, The Television Center, The L.A. Sheriff's Department, Neighborhood, NAPTS and Rocky Mountain are denied.

59. It is further ordered, That the petitions of Bogner and Microband are granted.

60. It is also ordered, That the petition of IBN is granted as to operator requirements but otherwise denied.[18]

61. It is further ordered, That §§ 73.685(f), 73.3540(c) and (e), 73.3572(a)(1), 74.632, 74.701, 74.703(d), 74.705(a), 74.707(a), 74.731(f), 74.732(d), 74.734(a), 74.735(c), 74.766(e) and 74.780 of the Commission's Rules are amended as set forth in Appendix B, effective June 13, 1983; and FCC Forms 348 and 345 are amended as set forth in Appendices C and D, effective upon approval by the Office of Management and Budget.

62. Finally, it is ordered, That parties to this proceeding and all low power television applicants are referred to our *Report and Order* in the lottery proceeding (Gen. Docket 81–768) which establishes significant application processing procedures for low power television.

63. Authority for these actions is contained in §§ 1, 4(i), 303 (b), (c), (g) and (r) and 403 of the Communications Act of 1934, as amended, and §§ 1.3, 1.412 and 1.429 of the Commission's Rules.

64. For further information concerning this proceeding, contact Barbara Kreisman, Mass Media Bureau, (202) 632–3894.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

The following comments on the petitions for reconsideration were filed:

"Opposition to Petitions for Reconsideration" filed by the National Association of Broadcasters;

"Statement in Support of Partial Reconsideration" filed by McKenna, Wilkinson & Kittner (MWK);

"Opposition to Petitions for Reconsideration" filed by National Cable Television Association (NCTA);

"Comments in support of Petition for Reconsideration" filed by the University of North Carolina (The University);

"Comments" filed by W. L. McIver, Jr.;

"Statement of the Association of Maximum Service Telecasters, Inc.";

"Comments in Support of Reconsideration of National Association of Business and Educational Radio, Inc." (NABER); and

[15] For example, § 73.3525(c) provides specific procedures where there are two or more mutually exclusive applications pending involving a determination pursuant to Section 307(b) of the Communications Act and a settlement agreement is filed by the applicants. Since we determined that Section 307(b) will not apply to this service, subsection (c) of § 73.3525 is not made applicable.

[16] Although this approach is adequate to protect the great majority of full service stations, there will be circumstances in which the results will not fully protect a station utilizing mechanical beam tilt. Low power applicants are cautioned to consider the standards set forth in § 73.683 in calculating the necessary protection of full service stations. Failure to do so could result in a complaint of interference from the full service station.

[17] The arguments presented by LEATAC also were presented in properly filed petitions for reconsideration, and have therefore been discussed herein.

[18] IBN states that it objects to the Commission's failure to adopt rules encouraging the growth of new networks. It also states that it objects to these Commission rules which delay service to urban areas and to the delays in processing applications. IBN does not state which rules it would like to see instituted or abolished in this respect. Therefore, this portion of IBN's petition is denied due to lack of specificity.

"Comments on the Los Angeles Sheriff's Petition to Deny Low Power UHF-TV Licenses and Petition to Reconsider BC Docket No. 78-253" filed by the California Peace Officers' Association (CPOA).

The following replies were filed:

"Reply Comments of the National Association of Broadcasters";

"International Broadcasting Network's Reply to Oppositions to its Petition for Reconsideration";

"Reply of Associated Public-Safety Communications, Inc."; and

"Reply Comments" submitted by California Public Broadcasting Commission (CPBC) (late filed).

Appendix B

PART 73—[AMENDED]

1. Section 73.685 is amended by revising paragraph (f) to read as follows:

§ 73.685 Transmitter location and antenna systems.

* * * * *

(f) Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to true North. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(3) A tabulation of the relative field pattern required in (2), above. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(4) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(5) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 7" x 10") using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10-nth. All vertical plane patterns must be plotted on unglazed letter-size rectangular coordinate paper. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(6) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

* * * * *

2. Section 73.3540 is amended by revising paragraph (c), removing existing subparagraph (d)(1), redesignating existing paragraph (e) as paragraph (f) and adding new paragraph (e) to read as follows:

§ 73.3540 Application for voluntary assignment or transfer of control.

* * * * *

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 314 "Assignment of License" or FCC Form 316 "Short Form" (See paragraph (f) below).

(d) * * *

(e) Application for consent to the assignment of construction permit or license or to the transfer of control of a corporate licensee or permittee for an FM or TV translator station, a low power TV station and any associated auxiliary stations, such as translator microwave relay stations and UHF translator booster stations, only must be filed on FCC Form 345 "Application for Transfer of Control of Corporate Licensee or Permittee, or Assignment of License or Permit for an FM or TV translator Station, or a Low Power TV Station."

3. Section 73.3572 of the FCC Rules is amended by revising subparagraph (a)(1) to read:

§ 73.3572 Processing of TV broadcast, low power TV, translator station applications.

(a) * * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or station location, or any change in the power or antenna location or height above average terrain (or combination thereof) that would result in a change of 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) In the case of low power TV and TV translator stations authorized under Part 74, it is any change in:

(i) Frequency (output channel) assignment;

(ii) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line;

(iii) Antenna height;

(iv) Antenna location exceeding 200 meters;

(v) Authorized operating power; or

(vi) Community or area to be served. However, if the proposed modification of facilities, other than a change in frequency, will not increase the signal range of the station in any horizontal direction, the modification will not be considered a major change. Provided further that the FCC may, within 15 days after the acceptance of any other application for modification of facilities advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

* * * * *

§ 74.632 [Amended]

4. a. The first sentence in paragraph (a) of § 74.632 is revised to read as follows:

"A license for a TV pickup, TV STL, or TV relay station will be issued only to licensees of TV broadcast stations and, on a secondary basis, licensees of low power TV stations."

b. The first sentence in paragraph (e) of § 74.632 is revised to read as follows:

"A license for a TV translator relay station will be issued only to licensees of low power TV and TV translator stations."

5. Section 74.701 is amended by adding new paragraph (h) to read as follows:

§ 74.701 Definitions

* * * * *

(h) *Local origination:* Program origination if the parameters of the program source signal, as it reaches the transmitter site, are under the control of the low power TV station licensee. Transmission of television program signals generated at the transmitter site constitutes local origination. Local origination also includes transmission or programs reaching the transmitter site via television STL stations, but does not include transmission of signals obtained from either terrestrial or satellite common carrier microwave feeds or low power stations.

6. Section 74.703 is amended by revising paragraph (d) to read:

§ 74.703 Interference.

* * * * *

(d) When a low power TV or TV translator station causes interference to a CATV system by radiations within its assigned channel at the cable headend or on the output channel of any system converter located at a receiver, the earlier user, whether cable system or low power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference. When a low power TV or TV translator station causes interference to an MDS of ITFS system by radiations within its assigned channel on the output channel of any system converter located at a receiver, the earlier user, whether MDS system or low power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference.

* * * * *

7. Section 74.705 is amended by revising paragraph (a) to read as follows:

§ 74.705 TV broadcast station protection.

(a) The TV broadcast station protected contour will be its Grade B contour signal level as defined in § 73.683 and calculated from the authorized maximum radiated power (without depression angle correction), the horizontal radiation pattern, height above average terrain in the pertinent direction, and the appropriate chart from § 73.699.

* * * * *

8. Section 74.707 is amended by inserting the following text after paragraph (a)(1)(iii) to preceed paragraph (b):

§ 74.707 Low power TV and TV translator station protection.

(a) * * *

(1) * * *

(iii) * * *

Existing licensees and permittees that did not furnish sufficient data required to calculate the above contours by April 15, 1983 are assigned protected contours having the following radii:

Up to 0.001 kW VHF/UHF—1 mile (1.6 km) from transmitter site

Up to 0.01 kW VHF; up to 0.1 k/W UHF—2 miles (3.2 km) from transmitter site

Up to 0.1 kW VHF; up to 1 kW UHF—4 miles (6.4 km) from transmitter site

New applicants must submit the required information: they cannot rely on this table.

* * * * *

9. Section 74.731 is amended by revising paragraph (f) to read as follows:

§ 74.731 Purpose and permissible service.

* * * * *

(f) A locally generated radio frequency signal similar to that of a TV broadcast station and modulated with visual and aural information may be connected to the input terminals of a television broadcast translator or low power station for the purposes of transmitting still photographs, slides and voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. When transmitting originations concerning financial support or public service announcements, connection of the locally generated signals shall be made automatically either by means of a time switch or upon receipt of a control signal from the TV station being rebroadcast designed to actuate the switching circuit. The switching circuit will be so designed that the input circuit will be returned to the off-the-air signal within 30 seconds. The connection for emergency transmissions may be made manually. The apparatus used to generate the local signal which is used to modulate the translator or low power station must be capable of producing a visual or aural signal or both which will provide acceptable reception on television receivers designed for the transmission standards employed by TV broadcast stations. The visual and aural materials so transmitted shall be limited to emergency warnings of imminent danger, to local public service announcements and to seeking or acknowledging financial support deemed necessary to the continued operation of the station. Accordingly, the originations concerning financial support and PSAs are limited to 30 seconds each, no more than once per hour. Acknowledgements of financial support may include identification of the contributors, the size and nature of the contribution and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

10. Section 74.732 is amended by revising paragraph (d) to read as follows:

§ 74.732 Eligibility and licensing requirements.

* * * * *

(d) The FCC will not act on applications for new low power TV or TV translator stations or for changes in facilities of existing stations when such changes will result in a major change until at least 30 days have elapsed since the date of which "Public Notice" is given by the FCC of acceptance for filing of such application, in order to afford an opportunity for competing applications to be filed.

* * * * *

11. Section 74.734 is amended by revising the introduction of paragraph (a) to read:

§ 74.734 Attended and unattended operation.

(a) In all circumstances other than during local origination (see § 74.701(h)), during which the operator must be in continuous attendance at the transmitter site, at a remote control point or at the program source, low power TV and TV translator stations may be operated without a licensed radio operator in attendance if the following requirements are met:

* * * * *

12. Section 74.735 is amended by revising paragraph (c) to read as follows:

§ 74.735 Power limitations.

* * * * *

(c) No limit is placed upon the effective radiated power that may be obtained by the use of horizontally or vertically polarized directive transmitting antennas, providing the provisions of §§ 74.705, 74.707 and 74.709 are met. Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. It is *not* acceptable to label the antenna with only a generic term such as "Yagi" or "Dipole". A specific model number must be provided. In the case of individually designed antennas with no model number, or in the case of a composite antenna composed of two or more individual antennas, the antenna should be described as a "custom" or "composite" antenna, as appropriate. A full description of the design of the antenna should also be submitted.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to the maximum radiation of the directional antenna or, alternatively in the case of a symmetrical pattern, to the line of symmetry. The 0° on the plot should be referenced to the actual azimuth with respect to true North.

(3) A tabulation of the relative field pattern required in (2), above. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maximas and minimas, with their corresponding azimuths, should be submitted.

(4) Horizontal plane radiation pattern showing the effective radiated power, in dBk, for each direction.

(5) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 7" x 10") using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10-nth. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(6) The horizontal plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna composed of two or more individual antennas, not the patterns for each of the individual antennas, must be submitted.

* * * * *

13. Section 74.766 is amended by revising paragraph (e) to read as follows:

§ 74.766 Low power TV and TV translator operator requirements.

* * * * *

(e) An operator holding any class of FCC operator license or permit, except the Marine Operator Permit, must be on duty in charge of the transmitting apparatus of a low power TV station during all period of local origination as defined in § 74.701(g).

14. Section 74.780 is revised to read as follows:

§ 74.780 Broadcast regulations applicable to translators and low power stations.

The following rules are applicable to TV translator stations and low power TV stations:

Section 73.653—Operation of TV aural and visual transmitters.
Section 73.658—Affiliation agreements and network program practices; territorial exclusivity in nonnetwork program arrangements.
Part 73, Subpart G—Emergency Broadcast System
Section 73.1201—Station identification.
Section 73.1205—Fraudulent billing practices.
Section 73.1206—Broadcast of telephone conversations.
Section 73.1207—Rebroadcasts.
Section 73.1208—Broadcast of taped, filmed or recorded material.
Section 73.1211—Broadcast of lottery information.
Section 73.1212—Sponsorship identification; list retention; related requirements.
Section 73.1216—Licensee conducted contests.
Section 73.1510—Experimental authorizations.
Section 73.1515—Special field test authorizations.
Section 73.1615—Operation during modifications of facilities.
Section 73.1635—Special temporary authorizations (STA).
Section 73.1650—International broadcasting agreements.
Section 73.1680—Emergency antennas.
Section 73.1940—Broadcasts by candidates for public office.
Section 73.2080—Equal employment opportunities (for low power television stations only).
Section 73.3511—Applications required.
Section 73.3512—Where to file; number of copies.
Section 73.3513—Signing of applications.
Section 73.3514—Content of applications.
Section 73.3517—Contingent applications.
Section 73.3518—Inconsistent or conflicting applications.
Section 73.3519—Repetitious applications.
Section 73.3525(a), (b), (d), (f), (g), (h) and (i)—Agreements for removing applications conflicts.
Section 73.3538(a)(1)(3)(4), (b)(2)—Applications to make changes in existing station.
Section 73.3541—Application for involuntary assignment or transfer of control.
Section 73.3542—Application for temporary authorization.
Section 73.3544—Application to obtain a modified station license.
Section 73.3545—Application for permit to deliver programs to foreign stations.
Section 73.3561—Staff consideration of applications requiring Commission action.
Section 73.3562—Staff consideration of applications not requiring action by the Commission.
Section 73.3568—Dismissal of applications.
Section 73.3572—Application processing.
Section 73.3587—Informal objections.
Section 73.3593—Designation for hearing.
Section 73.3599—Forfeiture of construction permit.
Section 73.3601—Simultaneous modification and renewal of license.
Section 73.3603—Special waiver procedure applicable to applications.
Section 73.3612—Annual employment report (for low power television stations only).

Appendix C

United States of America, Federal Communications Commission, Washington, D.C. 20554

Application for Renewal of License for Translator or Low Power Television Broadcast Station

1. Name of applicant

Street Address

Call Letters
City
State
Zip Code

2. This application is for: —— FM Translator —— TV Translator —— LPTV—

3. Have the Annual Employment Reports (FCC Form 395) of the LPTV applicant been filed with the Commission as required by Section 73.3612 of the rules?
—— Yes —— No
If No, attach as Exhibit No. and explanation.

4. Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?
—— Yes —— No
If No, attach as Exhibit No. and explanation.

5. Since the filing of the applicant's last renewal application for this station or other major application, has an adverse finding been made, a consent decree been entered or final action been approved by any court or administrative body with respect to the applicant or parties to the application concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony; lotteries; unlawful restraints or monopolies; unlawful combinations; contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination?
—— Yes —— No
If Yes, attach as Exhibit No. —— a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition of litigation.

6. If the applicant is rebroadcasting the signals of another TV or FM station,
(a) Identify the station being broadcast by:
—— Call Sign —— Channel No. ——
Location
(b) Has the required retransmission consent been obtained?
—— Yes —— No
If No, attach as Exhibit No. an explanation.

The Applicant hereby waives any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The Applicant acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this —— day of ——— 19—

Name of Applicant ———————

By Signature ———————

Title ———————

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT, U.S. CODE, TITLE 18, SECTION 1001

Question-by-Question Guidelines (FCC Form 348)

1. The name of the applicant should be stated exactly as it appears on the station's existing license. The current street address or post office box used by the applicant for receipt of Commission correspondence should be set forth.

2. The applicant should specifically indicate the nature of the station for which renewal is requested. See Rules 74.1201(a), 74.701(a), and 74.701(f) for the definitions of a FM translator, TV translator, and LPTV broadcast station, respectively.

3. Every LPTV station with five or more full-time employees must file an employment report on or before May 31 of each year.

4. Aliens, foreign governments and corporations, and corporations of which any officer or director is an alien or of which less than 80% of the capital stock is owned or voted by U.S. citizens, are prohibited from holding a broadcast station license. Where a corporate licensee is directly or indirectly controlled by another corporation, of which any officer or more than 25% of the directors are aliens or of which less than 75% of that corporation's stock is owned or voted by U.S. citizens, the Commission must consider whether denial or renewal would serve the public interest. Licensees are expected to employ reasonable, good faith methods to ensure the accuracy and completeness of their citizenship representations.

5. This question is limited to adverse actions and judgments adjudicated or entered into within the preceding license term. Reportable activities consist of judgments or decrees, including settlement, consent, and like agreements, where the misconduct occurred either in the operation of the station for which renewal is requested or in the conduct of the other broadcast and non-broadcast activities of the renewal applicant and parties to that application, such as all partners and all corporate officers, directors, and stockholders with a 10% or more ownership interest in the applicant.

6. Section 325(a) of the Communications Act of 1934, as amended, prohibits any broadcast station from rebroadcasting the program (or any part thereof) of another broadcasting station without the express authority of the originating station.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUB. L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3).

Appendix D

Federal Communications Commission,
Washington, D.C. 20554

Instructions for FCC Form 345

Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station

(FCC Form 345 Attached)

Instructions and Information

1. This form is to be used to apply for a transfer of control of a corporate licensee or permittee, or assignment of license or permit, for an FM or TV translator station, or a low power television station. It should also be used for any associated auxiliary stations, such as translator microwave relay stations (see § 74.602) and UHF translator booster stations (see § 74.733). DO NOT USE THIS FORM if a commonly owned or controlled primary station is filing an application for transfer of control or an assignment of a permit or license. In that case, the application of the licensee or permittee of the primary station will include all translator/auxiliary authorizations when filing its application on FCC Form 314, 315 or 316, whichever is applicable.

2. Prepare and file three copies of the attached form with the Federal Communications Commission, Washington, D.C. 20554.

3. Number any exhibits serially in the spaces provided in the body of the form. Each exhibit must be dated and clearly indicate whether it was prepared by the assignor/transferor (seller) or the assignee/transferee (buyer).

4. Information requested in the attached form already on file with the Commission need not be refiled in this application, provided (1) the information was submitted by or on behalf of the parties to this application; (2) the information is identified fully by reference to the file number (if any), the FCC form number, and the filing date of the application or other form, along with the page or paragraph referred to; and (3) the party states, "No change since date of filing." The material so identified will be considered incorporated in the attached application. The incorporated application or other form will thereafter be open to public inspection in its entirety.

5. The name of the assignor/transferor must be stated exactly as it appears on the authorization to be transferred or assigned.

6. For a corporation or government entity, the name of the assignee/transferee must be set out as the full, official name; for a partnership, the names of all partners and the name under which the partnership does business; for an unincorporated association, the name of the association, the name of an executive officer and the office held.

7. BOTH PARTIES TO THE TRANSACTION MUST SIGN THE APPLICATION in the spaces provided. Depending on the nature of the applicant, the application should be signed as indicated: for a sole proprietor, personally; for a partnership, by a general partner; for a corporation, by an officer; for an unincorporated association, by a member who is an officer; for a government entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in case of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowlelge, counsel shall separately set forth the reasons for believing that such statements are true.

8. Before filling out this application, the assignee/transferee should familiarize itself with the Communications Act of 1934, and with Parts 1 and 74 of the Commission's Rules.

9. Parties to the application. *If the applicant is an individual,* that person is a party to this application. *If the applicant is a partnership,* each general and limited partner (including "silent" partners) having an interest of one percent or more in profits is a party to the application. *If the applicant is a corporation,* all officers and directors, and all persons or entities who are the beneficial or record owners or have the right to vote any capital stock, membership or ownership interests of one percent or more, or subscribers to such interests, shall be considered parties to this application. If any corporation or other legal entity owns stock in the applicant, its officers, directors and persons or entities who are the beneficial or record owners or have the right to vote capital stock, membership or ownership interests of one percent or more, or subscribers to such interest, of that entity shall also be considered parties to this application. *For any other applicant,* all executive officers, members of the governing board and owners or subscribers to membership or ownership interests of one percent or more in the applicant.

10. United States Citizenship. Section 310 of the Communications Act requires that United States citizens must control broadcast stations, including FM and TV translator

stations, and low power television stations. Specifically, the FCC cannot assign or transfer a license or construction permit to an alien or the representative of an alien, to a foreign government or a representative of a foreign government, or to a corporation organized under the laws of a foreign government. Similarly, the FCC cannot transfer a license or construction permit to a corporate applicant that has any alien officers or directors, or that has more than 20 percent of its capital stock owned or voted by aliens or their representatives, foreign governments or their representatives, or by a corporation organized under the laws of a foreign country. Finally, if the corporate applicant is directly or indirectly controlled by another corporation, the FCC cannot grant a transfer or assignment application if the other corporation has any officer who is an alien, or more than 25 percent of the directors are aliens, or more than 25 percent of its stock is owned or voted by aliens or their representatives, foreign governments or their representatives, or a corporation organized under the laws of a foreign country. The applicant must determine the citizenship of each officer and director. It must also determine the citizenship of each person who owns or votes shares. For large corporations, a sample survey using a recognized statistical method is acceptable for determining the citizenship of those who own or vote shares.

11. Applicants seeking to acquire a low power television station, whether by assignment of license or permit, or by transfer of control, are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, an applicant that proposes to employ five or more full-time station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives and Hispanics.) This is submitted to the Commission as the Model EEO Program Form. If minority group representation in the available labor force is less that five percent in the aggregate, a program for minority group members is not required. A program must be filed, however, for women because they comprise a significant percentage of virtually all labor forces. If an applicant proposes to employ less than five full-time employees, no EEO program for women or minorities need be filed. Guidelines for developing an Equal Employment Opportunity program are set forth as a separate Model EEO Program.

12. Public Notice Requirement:

(1) Section 73.3580 of the Commission's Rules requires that applicants for assignment or transfer of a construction permit or license give local notice in a newspaper of general circulation in the community in which the station is located. Local notice is also required to be broadcast over the station, if it is capable of originating such an announcement. However, if the station is the only operating station in its broadcast service which is located in the community involved, publication of the notice in a newspaper is not required, if the announcement can be broadcast. This public notice requirement also applies with respect to major amendments, as defined in Section 73.3578(b) of the Rules.

(2) Completion of publication may occur within 30 days before or after tendering of the application. Compliance or intent to comply with the public notice requirements must be *certified* in this application. The information that must be contained in the notice of filing is described in Paragraph (g) of Section 73.3580 of the Rules. Proof of publication need not be filed with this application.

13. Be sure all necessary information is furnished and all paragraphs are fully answered. If any portions of the application are not applicable, state so specifically. Defective or Incomplete Applications May Be Returned Without Consideration.

14. Do not file this information and instruction sheet with the application.

FCC Notice to Individuals Required by the Privacy Act

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose(s) for which the information will be used is to determine if the benefit requested is consistent with the public interest.

The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing.

If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

The Foregoing Notice is Required by the Privacy Act of 1974, Pub. L. 93–579, December 31, 1974, 5 U.S.C. 552a(e)(3).

United States of America, Federal Communications Commission, Washington, D.C. 20554

Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment or License or Permit, for an FM or TV Translator Station, or a Low Power Television Station

(Carefully read the instructions before filling out the form. Do not file the instructions)

Section I–Assignor/Transferor

1. Application for:

A. ☐ Consent to assignment or ☐ Consent to transfer of control

B. For a ☐ television translator, ☐ FM translator, or ☐ a low power television station.

2. Name of Assignor/Transferor:

Street Address _____

City _____

State _____

Zip Code _____

Telephone No. _____

(include area code)

3. Authorization which is proposed to be assigned or transferred

(a) Call letters

(b) Location

4. Note.—Where licensee or permits have been granted to entities claiming preferences in the lottery selection process, the license or permit must ordinarily be held for a period of at least one year from the beginning of program tests. Is the assignor or transferor in compliance with this requirement? Yes—— No——. If no, submit as Exhibit —— an appropriate showing. See section 73.3597 of the Commission's Rules.

5. Call letters of any auxiliary stations which are to be assigned:

6. Attach as Exhibit No. —— a copy of the contract or agreement to assign the property and facilities of the station. If there is only an oral agreement, reduce the terms to writing and attach. The material submitted must include the complete agreement between the parties.

7. State in Exhibit No. —— whether the assignor, or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of the assignor's stock has had any interest in or connection with any dismissed and/or denied application; or any FCC license that has been revoked.

The Exhibit should include the following information: (i) name of party with such interest; (ii) nature of interest or connection, giving dates; (iii) call letters or file number of applications; or docket number; (iv) location.

8. Since the filing of the assignor's/transferor's last renewal application for the authorization being assigned or transferred, or other major application, has an adverse finding been made, a consent decree been entered or adverse final action been approved by any court or administrative body with respect to the assignor/transferor or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of assignor's/transferor's stock, concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony; lotteries; unlawful restraints or monoplies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination? —— Yes —— No

If Yes attach as Exhibit No. —— a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition or current status of the matter.

Section II—Assignee/Transferee

1. Name of Assignee/Transferee

Street Address _____

(or other identification)

City _____

State _____

Zip Code _____

Telephone No. _____

(include area code)

2. Assignee/Transferee is:

. —— an individual; —— a general partnership; —— a limited partnership; —— a corporation; —— other.

3. If the applicant is an unincorporated association or a legal entity other than an individual, partnership or corporation, describe in Exhibit No.—— the nature of the applicant.

4. (a) Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments? —— Yes —— No

(b) Will any funds, credit, or other consideration for construction, purchase or operation of the station be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents? —— Yes —— No

If Yes, provide particulars as Exhibit No. ——.

5. (a) Has an adverse finding been made, adverse final action taken or consent decree approved by any court or administrative body as to the applicant or any party to the application in any civil or criminal proceeding brought under the provisions of any law related to the following: any felony; lotteries; unlawful restraints or monopolies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination? (See instruction 9 for the definition of a "party" to this application.) —— Yes —— No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in 5.(a)? —— Yes —— No

If the answer to (a) or (b) above is YES, attach as Exhibit No. —— a full disclosure concerning the persons and matters involved, identifying the court or administrative body and the proceeding (by dates and file numbers), stating the facts upon which the proceeding was based or the nature of the offense committed, and disposition or current status of the matter.

6. The applicant certifies that sufficient net liquid assets are on hand or available from committed sources to consummate the transaction and operate the facilities for three months. —— Yes —— No

7. The applicant certifies that: (a) it has a reasonable assurance of present commitments from each donor, from each party agreeing to furnish capital, from each bank, financial institution or others agreeing to lend funds, and from each equipment supplier agreeing to extend credit; (b) it has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions and equipment suppliers) have sufficient net liquid assets to meet these commitments; and (c) it can and will meet all contractual requirements as to collateral, guarantees, and capital investment or donations: —— Yes —— No

For Low Power Television Applicants Only.

8. Low power television stations must offer a broadcast program service: a nonprogram service is not permitted. Therefore, submit as Exhibit No. —— a brief description, in narrative form, of the proposed program service.

9. Does the low power television applicant propose to employ five or more fulltime employees? —— Yes —— No

If the answer is YES, the applicant must include an EEO program called for in the separate Five Point Model EEO Program.

Assignee's/Transferee's Certification

The Assignee/Transferee hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The Assignee/Transferee acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The Assignee/Transferee represents that this application is not filed by it for the purpose of impeding, obstructing or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the Assignee/Transferee has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

Willful False Statements Made on This Form Are Punishable by Fine and Imprisonment

U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignee's/transferee's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this day of , 19

Name of Assignee/Transferee ——————

Signature ——————

Title ——————

Assignor's/Transferor's Certification

1. Has or will the assignor/transferor comply with the public notice requirement of Section 73.3580 of the Rules? ——Yes ——No

The Assignor/Transferor acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The Assignor/Transferor represents that this application is not filed by it for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the Assignor/Transferor has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

Willful False Statements Made on This Form Are Punishable by Fine and Imprisonment

U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignor's/transferor's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this day of , 19

Name of Assignor/Transferor ——————

Signature ——————

Title ——————

United States of America, Federal Communication Commission; Washington, D.C. 20554

Model EEO Program

1. Name of Applicant ——————

Street Address ——————

City ——————

State ——————

Zip Code ——————

Telephone No. —————— (Include Area Code)

2. This form is being submitted in conjunction with:

□ Application for Construction Permit for New Station

□ Application for Assignment of License

□ Application for Transfer of Control

(a) Call letters (or channel number or frequency)

——————

(b) Community of License

City ——————

State ——————

(□) Service: AM □ FM □ TV □ Other (Specify) □

Instructions

Applicants seeking authority to construct a new low power television broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, and applicant who proposes to employ five or more fulltime station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asians or Pacific Islanders, American Indians or Alaskan Natives and Hispanics.) This is submitted to the Commission as the Model EEO Program. If minority group representation in the available labor force is less than five percent *(in the aggregate)*, a program for minority group members is not required. In such cases, a statement so indicating must be set forth in the EEO model program. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ less than five fulltime employees, no EEO program for women or minorities need be filed.

Guidelines for a Model EEO Program and a Model EEO Program are attached.

Note.—Check appropriate box, sign the certification below and retun to FCC.

□ Station will employ less than 5 fulltime employees; therefore no written program is being submitted.

□ Station will employ 5 or more fulltime employees. Our 5 point program is attached.

Certification

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this ——— day of ———, 19—.

Signature ———

Title ———

Willful false statements made on this form are punishable by fine and imprisonment, U.S. Code, Title 18, Section 1001.

FCC Notice to Individuals Required by the Privacy Act

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

The foregoing notice is required by the Privacy Act of 1974, Pub. L. 93-579, December 31, 1974, 5 U.S.C. 552a(e)(3).

Guidelines to the Model EEO Program

The model EEO program adopted by the Commission for construction permit applicants, assignees and transferees contains five sections designed to assist the applicant in establishing an effective EEO program or its station. The specific elements which should be addressed are as follows:

I. General Policy

The first section of the program should contain a statement by the applicant that it will afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of minorities and women in the relevant available labor force.

II. Responsibility for Implementation

This section calls for the name (if known) and title of the official who will be designated by the applicant to have responsibility for implementing the station's program.

III. Policy Dissemination

The purpose of this section is to disclose the manner in which the station's EEO policy will be communicated to employees and prospective employees. The applicant's program should indicate whether it: (a) intends to utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate governmental agencies; (b) will post a notice which informs job applicants and employees that the applicant is an equal opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and (c) will seek the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it proposes to utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

IV. Recruitment

The applicant should specify the recruitment sources and other techniques it proposes to use to attract minority and female job applicants. Not all of the categories of recruitment sources need be utilized. The purpose of the listing is to assist the applicant in developing specialized referral sources to establish a pool of minorities and women who can be contacted as job opportunities occur. Sources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.

V. Training

Training programs are not mandatory. Each applicant is expected to decide, depending upon its own individual situation, whether a training program is feasible and would assist it in its effort to increase the pool of available minority and female applicants. Additionally, the applicant may set forth any other assistance it proposes to give to students, schools or colleges which is designed to be of benefit to minorities and women interested in entering the broadcasting field. The beneficiary of such assistance should be listed, as well as the form of assistance, such as contributions to scholarships, participation in work study programs, and the like.

Model Equal Employment Opportunity Program

I. General Policy

It will be our policy to provide equal employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It will also be our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have adopted an Equal Employment Opportunity Program which includes the following elements:

II. Responsibility for implementation

[Name/Title] ———, will be responsible for the administration and implementation of our Equal Employment Opportunity Program. It will also be the responsibility of all persons making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III. Policy Dissemination

To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts will be made:

( ) The station's employment application form will contain a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, State or Federal agency if they believe they have been the victims of discrimination.

( ) Appropriate notices will be posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, State, or Federal agency if they believe they have been the victims of discrimination.

( ) We will seek the cooperation of unions, if represented at the station, to help implement our EEO program and all union contracts will contain a nondiscrimination clause.

( ) Other (specify)

IV. Recruitment

To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration in filling job vacancies, we propose to utilize the following recruitment procedures:

( ) We will attempt to maintain systematic communication, both orally and in writing, with a variety of minority and women's organizations to encourage the referral of qualified minority and female applicants. Examples of organizations we intend to contact are:

———

———

( ) In addition to the organizations noted above, which specialize in minority and female candidates, we will deal only with employment services, including State employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services are:

———

———

( ) When we recruit prospective employees from educational institutions such recruitment efforts will include area schools and colleges with significant minority and female enrollments. Educational institutions to be contacted for recruitment purposes are:

———

———

( ) When utilizing media for recruitment purposes, help-wanted advertisements will always include a notice that we are an Equal Opportunity Employer and will contain no

indication, either explicit or implied, of a preference for one sex over another.

( ) When we place employment advertisements in printed media some of such advertisements will be placed in media which have significant circulation or are of particular interest to minorities and women. Examples of publications to be utilized are:

( ) We will encourage employees, particularly minority and female employees, to refer minority and female candidates for existing and future job openings.

V. Training

( ) Station resources and/or needs will be such that we will be unable or do not choose to institute specific programs for upgrading the skills of employees.

( ) We will provide on-the-job training to upgrade the skills of employees.

( ) We will provide assistance to students, schools or colleges in programs designed to enable minorities and women to compete in the broadcast employment market on an equitable basis:

School or Other Beneficiary

Proposed Form of Assistance

( ) Other (Specify)

[FR Doc. 83-12711 Filed 5-11-83; 8:45 am]
BILLING CODE 6712-01-M

federal register

Thursday
May 12, 1983

Part V

Department of Transportation

Research and Special Programs Administration

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket Nos. IRA-20 through IRA-27]

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau (MTB), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Nuclear Assurance Corporation (NAC), as an agent of Atomic Energy of Canada, Ltd., arranges for the transportation of spent nuclear fuel from Chalk River, Ontario, to a United States Department of Energy facility at Savannah River, South Carolina. In doing so, NAC is subject to radioactive materials transportation safety regulations issued by the Federal government as well as by the States of Michigan, New York and Vermont and certain political subdivisions thereof. NAC has petitioned DOT for administrative rulings as to whether certain of these non-Federal requirements are inconsistent with, and thus preempted by, the Hazardous Materials Transportation Act (HMTA) and the regulations issued thereunder. Since the Department is on notice of additional transportation requirements affecting radioactive materials routing options, the decision has been made in accordance with 49 CFR 107.209(b) to subject these to the same analysis as those for which NAC submitted inconsistency ruling applications.

DATES: Comments received on or before July 8, 1983, will be considered before an inconsistency ruling is issued.

ADDRESSES: The applications and any comments received may be reviewed in the Dockets Branch, Materials Transportation Bureau, Room 8426, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments on any of the docketed items described in this Notice may be submitted to the Dockets Branch at the above address. The correct Docket Number (IRA-) must be indicated in your submission. A signed original and three copies of each submission are required. A copy of each comment must also be sent in accordance with the following:

Comments Re:	Send copy to:
All dockets	Mr. Larry Danese Manager, Cask Operations Nuclear Assurance Corporation 5720 Peachtree Parkway Norcorss, GA 30092
IRA-20	Mr. Donald A. Devito Director, Office of Disaster Preparedness New York State Division of Military and Naval Affairs Public Safety Building New York State Campus Albany, NY 12226
IRA-21	Col. Gerald L. Hough, Director Department of State Police 714 S. Harrison Road East Lansing, MI 48823 and Dr. Gloria R. Smith, Director Michigan Department of Public Health 3500 North Logan Street Lansing, MI 48909
IRA-22	Mr. Dean Pineles Office of the Governor Pavillion Office Building Montpelier, VT 05602
IRA-23	Mr. Joseph E. Pauquette Director of Operations New York State Thruway Authority 200 Southern Boulevard Albany, NY 12201
IRA-24	Mr. James P. McGuinness Executive Director Ogdensburg Bridge and Port Authority Ogdensburg, NY 13669
IRA-25	Mr. Augustus Marscher, Chairman St. Lawrence County Board of Legislators Court Street Canton, NY 13617
IRA-26	Mr. Russell Wilcox Executive Director Thousand Islands Bridge Authority P.O. Box 428 Collins Landing, Alexandria Bay, NY 13607
IRA-27	Mr. Edward E. Cobb Chairman, Planning Committee The County of Jefferson 175 Arsenal Street Watertown, NY 13601

The fact of submission of copies to the appropriate parties is to be certified at the time the comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment regarding Docket No. have been sent to Mr. Larry Danese and at the addresses noted in the Federal Register publication.")

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street SW., Washington, D.C. 20590. (Tel: 202/755-4972)

SUPPLEMENTARY INFORMATION:

1. Preemption Under the HMTA

The HMTA (49 U.S.C. 1801-1812) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or in a regulation issued under (the HMTA)." However, section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent requirement of a State or political subdivision thereof ceases to be preempted if, upon the application of an appropriate State agency, the Secretary of Transportation determines that such requirement (1) provides an equal or greater level of protection to the public than the HMTA or regulations issued thereunder and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201-107.225. These regulations provide for the issuance of inconsistency rulings and non-preemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a requirement of a State or political subdivision thereof and a requirement of the HMTA or regulations issued under the HMTA. The determination of whether a State of political subdivision requirement is inconsistent is based on consideration of the factors set forth at 49 CFR 107.209(c):

(1) Whether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the State or political subdivision requirement is an obstacle to the accomplishement and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with a Federal requirement, the State or locality may seek a non-preemption determination, i.e., waiver of preemption pursuant to section 112(b) of the HMTA (49 U.S.C. 1811(b)).

2. Federal Routing Regulations

On January 19, 1981, the Department issued a final rule entitled, "Radioactive Materials; Routing and Driver Training Requirements," commonly known by its docket number, "HM-164." In relevant part, the rule provided that highway carriers of large quantity radioactive materials (including spent nuclear fuel) are required to use "preferred routes," which are defined as Interstate System highways or alternative highway routes designated by the States that provide an equal or greater level of safety as compared with the Interstate System (49 CFR 177.825(b)).

The rulemaking had been initiated largely in response to a proliferation of State and local restrictions on the transportation of radioactive materials. The final rule was based on the Department's general conclusions that "the public risks in transporting these materials by highway are too low to justify the unilateral imposition by local governments of bans and other severe restrictions on the highway mode of transportation"; and "public safety can

be improved through a nationally uniform rule that ensures the use of available highway routes that are known to be safe for large quantity radioactive materials."

As described above, under the preemptive scheme of the HMTA, State and local requirements that are inconsistent with the HMTA and the regulations issued under it, are preempted. In order to assist the public in interpreting and applying this preemptive scheme in the context of HM-164, the final rule included an appendix to 49 CFR Part 177 setting forth the Department's views regarding the preemptive effects of the rule (46 FR 5317). This appendix provides that the Department generally regards State and local requirements to be inconsistent if they:

- prohibit the highway transport of large quantity radioactive materials without providing for an alternative highway route for the duration of the prohibition;
- require additional or special personnel, equipmernt, or escort;
- require additional or different shipping paper entries, placards, or other hazard warning devices;
- require filing route plans or other documents containing informaiton that is specific to individual shipments;
- require prenotification;
- require acident or incident reporting other than as immediately necessary for emergency assistance; or
- unnecessarily delay transportation.

3. Background

Nuclear Assurance Corporation (NAC), as an agent of Atomic Energy of Canada, Ltd. (AECL), arranges for the transportation of spent nuclear fuel from Chalk River, Ontario, to a U.S. Department of Energy (DOE) facility at Savannah River, South Carolina. AECL has a contract with DOE for reprocessing nuclear fuel which is part of an overall agreement between the United States and Canada for the assured supply of enriched uranium for the Canadian research reactors. In the process of arranging for the transportation of spent fuel, NAC has encountered a variety of State and local transportation regulations which have impacted its routing options. NAC's description of these regulations and their impacts is as follows.

Until 1979, the spent fuel was shipped to the DOE reprocessing facility by truck entering the U.S. by way of the Ogdensburg (NY) Bridge across the St. Lawrence River. In 1980, the Ogdensburg Bridge and Port Authority adopted rules and regulations which banned shipments of radioactive materials. Concurrently, St. Lawrence County, at the foot of the bridge, enacted a ban on commercial spent fuel shipments. The bridge authority has since amended its rules to incorporate the provisions of the St. Lawrence County law.

Subsequently, in 1981 and 1982, NAC requested and received Nuclear Regulatory Commission (NRC) approval for five routes entering the U.S. in Michigan, New York and Vermont. After the Michigan route was approved, rules governing the transportation of radioactive materials were adopted by both the Michigan Fire Safety Board and Department of Health. NAC alleges that the rules established packaging, planning, information and equipment requirments more stringent than those required by Federal agencies for spent fuel shipments. Moreover, NAC asserts that the net effect of the Michigan requirements was to prevent spent fuel shipments from entering Michigan by way of the approved routes.

As a result of the Michigan requirements, a ban by the New York Thruway Authority, and a permit requirement based on substantial insurance coverage imposed by the Thousand Islands Bridge Authority and incorporated in a Jefferson County (NY) Resolution on regulating the transport of radioactive materials, NAC turned to the use of a land crossing in Vermont. This route was used without incident for eight of eleven planned shipments. However, when confidential information regarding transport schedules was released, the Governor of Vermont called upon NAC to interrupt the series of shipments in order to preclude possible civil action. Shortly thereafter, NAC was notified by the Governor that Vermont did not intend to permit further through shipments of spent fuel until such time as the responsible Federal agencies established and enforced a uniform national policy regarding such shipments.

Following the prohibition in Vermont, NAC established a sixth route through New York. This route was intended to accomplish the remaining three shipments in the series. Prior to NAC's use of this route, however, the Governor of New York directed his representative to send a notice advising NAC to suspend spent fuel shipments through New York "pending development of a policy applied uniformly, nationwide, covering transportation of radioactive materials."

Docket No. IRA-20 (New York State)

1. Facts

By letter dated October 8, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether an order issued by the State of New York is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) and the regulations issued thereunder. The complete text of the order is as follows:

October 7, 1982
Nuclear Assurance Corporation
24 Executive Park West
Atlanta, Georgia 30329

You are hereby advised to suspend proposed shipments of spent fuel rods through New York State from Chalk River, Canada via two non-interstate routes in the urban areas of Albany-Schenectady-Troy and Binghamton pending development of a policy applied uniformly, nationwide, covering transportation of radioactive materials.

[Signed]
Donald A. DeVito
Governor's Designated
Representative

NAC contends that the requirements imposed by the order are inconsistent with the intent and the language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to certain sections of the HMR which deal with highway routing of radioactive materials. In support of the proposed use of non-interstate routes, NAC cites 49 CFR 177.825(a) (which states that the requirement for operating on routes that minimize radiological risk does not apply when there is only one practicable highway route available) and 49 CFR 177.825(b) (which allows a motor vehicle to deviate from a preferred route to pick up, deliver or transfer a large quantity package of radioactive materials). As further argument that the New York order is inconsistent, NAC cites Appendix A to 49 CFR Part 177 (which states that a State routing rule is inconsistent with Part 177 if it prohibits transportation of large quantity radioactive materials by highway between two points without providing an alternate route for the duration of the prohibition).

Pursuant to 49 CFR 107.205(a), the Governor's Designated Representative submitted comments on behalf of the State of New York regarding the application for an inconsistency ruling. The State contends that its order is fully consistent with the HMTA and the regulations issued thereunder. In support of this contention, the State cites 49 CFR 177.285(b)(1) (which requires a motor vehicle carrying a large quantity package of radioactive materials to operate over a "preferred route", i.e., an Interstate System highway or a State-designated alternate

route). Pointing out that there are no State-designated alternate routes selected by New York, the State contends that the "preferred route" in New York is the Interstate System of highways. Moreover, the State contends that NAC's proposed use of non-interstate routes does not constitute an allowable deviation under any of the conditions set forth under 49 CFR 177.285(b). Finally, the State contends that there is a route available to NAC which is entirely interstate and is, thus, a "preferred route" under the terms of the HMR. That route involves transport through Vermont and across New York on Interstate Route 84. The State concluded its comments on the application by asserting that NAC is not relieved of the regulatory requirement of using preferred routes in New York merely because the actions of another State have created difficulties in the use of preferred routes.

2. Public Comment

Comments should be restricted to the following issue: Whether the letter sent to NAC on October 7, 1982, constitutes a State requirement which is inconsistent with the HMTA and the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the order on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–20) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16952, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Commenters are reminded to indicate Docket No. IRA–20 on their submissions and to comply with the distribution and certification requirements described in the section entitled **ADDRESSES** supra.

Docket No. IRA–21 (Michigan)

1. Facts

By letter dated October 13, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether the State of Michigan Radioactive Materials Transportation Rules (Sections R29.551–29.560 of the State Fire Safety Board (SFSB) Rules and Sections R325.5801–325.5810 Michigan Department of Public Health (DPH) Rules) are inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder.

Pursuant to 49 CFR 107.205(a), the State of Michigan submitted comments regarding the application for an inconsistency ruling. The State asserted, inter alia, that the application was invalid with regard to the DPH rules, since the rules referenced by NAC were only draft rules. The State provided copies of the DPH rules which had become effective on July 14, 1982, and the Department determined that there were insufficient differences between the draft and final rules to void NAC's application. Accordingly, the effective SFSB and DPH rules are appended to this notice as Appendices A and B respectively.

NAC contends that the SFSB and DPH rules are inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to 49 CFR Parts 173 and 177. NAC contends that the State rules are inconsistent because they require, among other things: prenotification; the filing of route plans, contingency plans and other documents; the use of additional special communications equipment; and the performance of packaging tests in addition to those required by the Nuclear Regulatory Commission and the Department of Transportation. The requirements for plan and document filing, it is contended, are in addition to those prescribed in the HMR.

In its comments on the application, the State contends that the rules are reasonable and necessary to ensure compliance with Federal and State safety regulations and to ensure adequate and timely emergency response. With regard to its requirements for the filing of emergency plans and the performance of packaging tests, Michigan contends that its "major bridges" pose a unique local safety problem which justifies the more stringent State requirements.

2. Public Comment

Comments should be restricted to the following issue: Whether the State of Michigan Radioactive Materials Transportation Rules are inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the Michigan rules on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–21) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeals at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211); and the SFSB and DPH rules which are provided as Appendices A and B to this notice.

Commenters are reminded to indicate Docket No. IRA–21 on their submissions and to comply with the distribution and certification requirements described in the section entitled **ADDRESSES** supra.

Docket No. IRA–22 (Vermont)

1. Facts

By letter dated October 14, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether an order issued by the Governor of Vermont is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder. The complete text of the order is as follows:

October 8, 1982.
Nuclear Assurance Corporation,
24 Executive Park West,
Atlanta, Georgia 30329

This is to advise you that the State of Vermont does not intend to permit any further shipments of spent fuel through Vermont until such time as the responsible federal agencies establish and enforce a uniform national policy regarding such shipments. Vermont will not be placed at a disadvantage because of actions in other states which ban or have the effect of banning shipments in violation of applicable federal law. More specifically, Vermont may not be used as a route until the federal Department of Transportation and the Nuclear Regulatory Commission fulfill their legal responsibilities with respect to any statutes, regulations or ordinances in the states of Michigan and New York that are inconsistent with preemptive federal law and have the effect of forcing shipments through this state.

Since you stopped shipments through Vermont on September 3, 1982, Vermont Secretary of Transportation Tom Evslin has written Drew Lewis, Secretary of the U.S. Department of Transportation, expressing our strong concerns regarding the unfair impact on Vermont resulting from the actions of these other states. We are confident now that

Mr. Lewis and other responsible federal officials understand the serious nature of the issue and plan to take necessary action to remedy the inequities that now exist.

I must advise you that if you were to plan shipments through Vermont in the meantime, I would seek all legal remedies available to me to stop the shipments, including an immediate injunction.

I hope I have clearly stated my position on this matter. If you should have any questions, I would expect to hear from you immediately.

Sincerely,
[Signed]
Richard A. Snelling,
Governor

NAC contends that the requirements imposed by the order are inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to certain sections of the HMR which deal with highway routing of radioactive materials. In support of its proposed use of Interstate Route 91, NAC cites 49 CFR 177.825(b) which requires a motor vehicle containing a package of large quantity radioactive material to operate over "preferred routes" (i.e. an Interstate System highway or a State-designated alternate route). As further support of its contention that the Vermont order is inconsistent, NAC cites Appendix A to 49 CFR Part 177 which articulates the DOT policy that a State routing rule is inconsistent with Part 177 if it prohibits transportation of large quantity packages of radioactive material by highway between two points without providing an alternate route for the duration of the prohibition.

Pursuant to 49 CFR 107.205(a), the State of Vermont submitted comments regarding NAC's application for an inconsistency ruling. The State contends that: (1) the letter to NAC dated October 8, 1982, does not constitute a state routing rule; (2) Vermont's rules regarding the shipment of nuclear wastes are fully consistent with Federal requirements; and, (3) the letter is merely a statement of intent to seek equitable relief to avoid bearing the brunt of radioactive materials transportation "until such time as the federal government resolves the problems created by the regulations in New York and Michigan which seem clearly inconsistent with DOT regulations."

2. Public Comments

Comments should be restricted to the following issue: Whether the letter sent to NAC on October 8, 1982, constitutes a State requirement which is inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the Vermont letter on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA-22) should examine the HMTA (49 U.S.C. 1801-1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171-179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201-107.211).

Commenters are reminded to indicate Docket No. IRA-22 on their submissions and to comply with the distribution and certification requirements described in the section **ADDRESSES** supra.

Docket No. IRA-23 (New York State Thruway)

1. Facts

By letter dated October 20, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether the prohibition on irradiated reactor fuel shipments over facilities operated by the New York State Thruway Authority is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder. The prohibition is contained in Section 102.1(q) of Chapter III, Title 21, Official Compilation of Codes, Rules and Regulations of the State of New York:

Part 102. Limitations on Use of the Thruway System

102.1 Prohibited uses of the Thruway.

Use of the Thruway system and entry thereon is prohibited at all times, with the noted exceptions:

* * * * *

(q) Vehicles carrying radioactive materials except under such procedures as may be adopted by the authority board, and as thereafter amended, from time to time, by the department of operations with the approval of the chairman.

NAC contends that the prohibition is inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to 49 CFR 177.825(b) which requires a motor vehicle carrying a large quantity package of radioactive material to operate on a "preferred route", i.e., an Interstate System highway or a State-designated alternate route. NAC asserts that the Thruway System is a part of the Interstate System, that the State has not designated a preferred route, and that the prohibition therefore conflicts directly with 49 CFR 177.825(b). NAC further contends that the prohibition is inconsistent with the terms of the DOT policy statement which appears as Appendix A to 49 CFR Part 177. Appendix A states, inter alia, that a State or local routing rule is inconsistent with 49 CFR Part 177 if it prohibits or otherwise restricts transportation of large quantity radioactive materials on routes authorized by Part 177.

Pursuant to 49 CFR 107.205, NAC mailed a copy of the application to the New York State Thruway Authority. At this time, no comments regarding the application have been received from the Thruway Authority.

2. Public Comment

Comments should be restricted to the following issue: Whether the prohibition set forth in Section 102.1(q) of the regulations of the New York State Thruway Authority is inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the prohibition on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriare at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA-23) should examine the HMTA (49 U.S.C. 1801-1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171-179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201-107.211).

Commenters are reminded to indicate Docket No. IRA-23 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA-24 (Ogdensburg Bridge)

1. Facts

The Ogdensburg Bridge and Port Authority (OBPA) is a public benefit corporation of the State of New York which operates a number of transportation facilities including the

Ogdensburg-Prescott International Bridge (Ogdensburg, New York-Prescott, Ontario). The OBPA performs as an independent, self-supporting agency in administering and developing its facilities.

In 1980 the OBPA unanimously adopted rules and regulations governing the Ogdensburg Bridge which included a prohibition on shipments of radioactive materials. The rules went into effect on August 29, 1980, following receipt by the New York Secretary of State for inclusion as Chapter LXV, Sections 5700–5799 of the New York Code of Rules and Regulations (NYCRR).

Before the rules became effective, the U.S. Department of State submitted comments urging the OBPA not to adopt the proposed rules on the basis of the detrimental impact the proposed prohibition of radioactive material shipments would have on U.S. foreign policy and nuclear non-proliferation policy. At the time the Department of State submitted its comments, the Ogdensburg Bridge was used for shipments of highly enriched uranium to Canada for use in its research program and for the return of spent fuel to the U.S. for reprocessing. Pointing out that the return of spent fuel was integral to U.S. policy, as it enabled the U.S. to control the supply of this material and thereby prevent the proliferation of nuclear explosive devices, the Department of State asserted that transportation restrictions such as that proposed (and ultimately adopted) by the OBPA would seriously impede this policy. Recognizing that the proposed rules arose from a concern about potential health and safety impacts of radioactive materials transportation, the Department of State urged the OBPA to continue to work with the U.S. Department of Transportation and the Nuclear Regulatory Commission to resolve any concerns about these shipments.

In proposing the prohibition on radioactive materials transportation, OBPA had expressed concerns not only about safety, but also about indemnification in the event of a transportation accident. In correspondence initiated before the prohibition was adopted as a final rule and continuing for some time thereafter, the State Department assured the OBPA that nuclear insurance coverage and U.S. and Canadian nuclear indemnification statutes adequately and specifically protected the OBPA properties and operations. According to the State Department, the Price-Anderson Act (42 U.S.C. 2014, 2210) and implementing indemnity agreements provided broad protection for the OBPA in the event of a nuclear incident arising out of the transportation of radioactive materials to and from Department of Energy (DOE) facilities such as the reprocessing plant in Savannah River, South Carolina. Consistent with Price-Anderson, DOE's contract with the operator of the Savannah River reprocessing facility contained nuclear hazards indemnity articles which provided up to $500 million in protection for public liability resulting from a nuclear incident arising from the transportation within the U.S. of source, special nuclear, or by-product material to or from the Savannah River Plant. The indemnity extended not only to the party with whom the contract was executed, but also to any other party (including the OBPA) who might be liable to the public in connection with an incident (42 U.S.C. 2014(t)).

In April of 1981, the OBPA informed the State Department that it was willing to reconsider the original request to remove the ban on the transport of radioactive materials, on condition that: (1) OBPA received definite assurances that nuclear insurance coverage and U.S. and Canadian nuclear indemnification statutes adequately and specifically protected its properties and operations; and (2) OBPA received verification that an application for a Certificate of Emergency Transport had been submitted to and approved by the St. Lawrence County Emergency Services Coordinator-Civil Defense Director. The State Department subsequently provided the required assurances concerning indemnification. However, due to time constraints, scheduled shipments had proceeded by alternate routes.

In September of 1981 the OBPA amended its rules by deleting the prohibition on radioactive materials transportation and establishing new regulations by which such transportation would be allowed. The new rules, as set forth in sections 5701.3 and 5702.1–5702.3 of Chapter LXV of the New York Code of Rules and Regulations, are provided as Appendix C to this notice. Essentially, the rules: incorporate the provisions of St. Lawrence County Local Law No. 10 (see Appendix D); require prior approval by the OBPA of insurance coverage and/or indemnification provisions; and reserve to the OBPA the right to specify the time of crossing, to provide any escort deemed necessary and to obtain full compensation for the costs associated with the clearance and crossing of radioactive materials.

Shortly after the OBPA adopted the amended rules, Federal regulations on highway transportation of radioactive materials became effective. As set forth in 49 CFR 177.825, carriers of large quantity radioactive material are required to operate over preferred routes", i.e., Interstate System Highways or alternate routes designated by a State routing agency in accordance with DOT guidelines. The Ogdensburg Bridge is not part of an Interstate System highway and the State of New York has not designated preferred routes. Therefore, at this time, use of the Ogdensburg Bridge for transportation of large quantity radioactive material would constitute a violation of the HMR. Nevertheless, the Ogdensburg Bridge is an international crossing which was used without incident in the past for transportation of large quantity radioactive material and which must therefore receive serious consideration as a possible preferred route at such time as New York chooses to designate preferred routes. Therefore in accordance with 49 CFR 107.209(b), notwithstanding that application for a ruling has not been filed, the Department has elected to issue an administrative ruling on the issue of whether or not the radioactive materials transportation rules of the OBPA would be inconsistent (with the HMTA or the regulations issued thereunder) if the Ogdensburg Bridge were designated as part of a preferred route.

2. Public Comment

Comments should be restricted to the following issue: Whether the radioactive materials transportation rules of the OBPA would be inconsistent (with the HMTA or the regulations issued thereunder) if the Ogdensburg Bridge were designated as part of a preferred route.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of the OBPA rules on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA–24) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the Price-Anderson Act (42 U.S.C. 2014, 2210); the procedures governing the Department's issuance of inconsistency

rulings (49 CFR 107.201–107.211); the radioactive materials transportation rules of the OBPA (Appendix C); and St. Lawrence County Local Law No. 10 (Appendix D).

Commenters are reminded to indicate Docket No. IRA–24 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA–25 (St. Lawrence County)

1. Facts

On August 11, 1980, the St. Lawrence County (NY) Board of Legislators adopted Local Law No. 10 for the year 1980, which was duly published in accordance with Section 24 of the County Law of the State of New York. Local Law No. 10 established the requirement that any party seeking to transport large quantity/high level radioactive materials within St. Lawrence County obtain a Certificate of Emergency Transport from the St. Lawrence County Emergency Services Coordinator-Civil Defense Director, which Certificate "will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns." (Local Law No. 10 is appended to this notice as Appendix D.)

St. Lawrence County lies at the foot of the international bridge linking Ogdensburg, New York, and Prescott, Ontario. Thus, any restriction on transportation in St. Lawrence County imposes an equal restriction on international transportation over the Ogdensburg Bridge. It appears that the effect of Local Law No. 10 has been to redirect shipments of radioactive materials to other routes.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive materials which became effective on February 1, 1982. As set forth at 49 CFR 177.825, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or alternate routes designated by a State routing agency in accordance with DOT guidelines. No Interstate System highways run through St. Lawrence County and the State of New York has not designated preferred routes. Therefore, at this time, transportation of large quantity radioactive material through St. Lawrence County would constitute a violation of the HMR. Nevertheless, transportation of large quantity radioactive material across the Ogdensburg Bridge and through St. Lawrence County occurred without incident in the past and this route must therefore receive serious consideration as a possible preferred route at such time as New York chooses to designate preferred routes. Therefore, in accordance with 49 CFR 107.209(b), notwithstanding that application for a ruling has not been filed, the Department has elected to issue an administrative ruling on the issue of whether or not Local Law No. 10 would be inconsistent (with the HMTA or the regulations issued thereunder) if non-Interstate System highways within St. Lawrence County were designated as part of a preferred route.

2. Public Comment

Comments shall be restricted to the following issue: Whether the requirements set forth in Local Law No. 10 would be inconsistent (with the HMTA or the regulations issued thereunder) if non-Interstate System highways within St. Lawrence County were designated as part of a preferred route.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of Local Law No. 10 as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA–25) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881) 46 FR 18918 (Appeal at 47 FR 18457) 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Departments's issuance of inconsistency rulings (49 CFR 107.201–107.211); and St. Lawrence County Local Law No. 10 of 1980 which is provided as Appendix D to this notice.

Commenters are reminded to indicate Docket No. IRA–25 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA-236 (Thousand Islands Bridge)

1. Facts

The Thousand Islands Bridge Authority (TIBA) is responsible for the operation and maintenance of the Thousand Islands Bridge, an international crossing which links Collins Landing, New York, and Ivy Lea, Ontario. By letter dated March 22, 1982, the TIBA applied to the Department of Transportation for a non-preemption determination regarding its rules and regulations governing the shipment of radioactive material across the Thousand Islands Bridge. As set forth at 49 CFR 107.215(b)(4), any application for a non-preemption determination must contain an express acknowledgment by the applicant that the rule in question is inconsistent with the HMTA or the regulations issued thereunder. Such acknowledgment is not required if the rule has been determined inconsistent by a court of competent jurisdiction or in an inconsistency ruling issued under 49 CFR 107.209. Neither of these exceptions applied to the rules governing the Thousand Islands Bridge. Therefore, when the TIBA, upon direct request, declined to acknowledge the inconsistency of the rules for which it had requested a non-preemption determination, the Department suspended action on the matter.

The relevant sections of the TIBA regulations are contained in sections 5503.2 and 5503.3 of Chapter LXIII, Title 21, Official Compilation of Codes, Rules and Regulations of the State of New York:

5503.2 Types of vehicles excluded. Vehicles loaded in such a manner or with such materials or so constructed or equipped as possibly to endanger persons or property or likely to render the use of the facilities unsafe, shall be excluded from use of the facilities, and the transportation of any such vehicle is hereby prohibited. Without limiting the foregoing, the following types of vehicles come within the meaning of this section and shall be denied use of the facilities:

* * * * *

(n) vehicles which would be excluded from passage without a special permit or escort, under section 5503.3 of this Part, and for which no such permit has been issued or no such escort provided;

* * * * *

5503.3 Vehicles requiring special permits or escorts. (a) No vehicle falling within any of the following categories shall be permitted to use the facilities unless a special permit therefor is issued by the authority employee in charge and, if required as a condition of such permit, a special escort is provided and fees therefor paid, viz:

* * * * *

(6) vehicles transporting explosives, radioactive materials or other dangerous commodities; and

(7) vehicles which have recently carried explosives, radioactive materials or other dangerous commodities and show any evidence of residue of such materials or commodities.

(b) In determining whether or not such special permit should be issued or, if issued, what conditions should apply thereto, such authority employee in charge may confer

with the authority's consulting engineers, counsel and-or whatever other specialists or regulatory agencies he may consider appropriate in the circumstances, but such determination in any given situation shall be the sole and exclusive judgment of such authority employee in charge and final and binding upon all persons.

Specifc requirements are set forth in the "Application for Permit to Transport Nuclear Materials via the Thousand Islands Bridge" which is provided as Appendix E to this notice. The application requires shipment-specific information, establishes insurance requirements, and reserves to the TIBA, at its sole discretion, the right to accept or reject the application for transit.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive materials which became effective on February 1, 1982. Essentially, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or State-designated alternate routes. In Appendix A to 49 CFR Part 177, the Department articulated its policy concerning the relationship between State and local rules and the Federal routing rules contained in Part 177. Appendix A states, inter alia, that a State or local transportation rule is inconsistent with Part 177 in it requires filing route plans or other documents containing information that is specific to individual shipments or unnecessarily delays transportation.

The question of whether the rules governing radioactive materials transportation across the Thousand Islands Bridge are inconsistent resurfaced in October of 1982. In a letter to the Department, Nuclear Assurance Corporation cited "a permit requirement for an arbitrary, but substantial, insurance coverage at the Thousand Islands Bridge" as one of several factors restricting the availability of routes for transporting spent nuclear fuel from Chalk River, Ontario to a DOE reprocessing facility at Savannah River, South Carolina. Therefore, notwithstanding that application for an inconsistency ruling has not been filed, the Department has elected, in accordance with 49 CFR 107.209(b), to issue an adminstrative ruling on the question of whether or not the radioactive materials transportation rules of the TIBA are inconsistent with the HMTA or the regulations issued thereunder.

2. Public Comment

Comments shall be restricted to the following issue: Whether the radioactive materials transportation regulations of the TIBA are inconsistent with the HMTA or the regulations issued thereunder.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of the TIBA regulations as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA-26) should examine the HMTA (49 U.S.C. 1801-1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171-179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201-107.211); the regulations governing the transport of nuclear materials via the Thousand Islands Bridge (21 NYCRR 5503.2-5503.3); and the application for transit permit which is provided as Appendix E of this notice.

Commenters are reminded to indicate Docket No. IRA-26 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA-27 (Jefferson County)

1. Facts

By letter dated May 13, 1982, Jefferson County (NY), notified the Department of Transportation of its adoption of Resolution No. 81 "Regulating the Transport of Radioactive Materials Through Jefferson County". Resolution No. 81 (which is provided as Appendix F to this notice) established a number of conditions affecting radioactive materials transportation, including prenotification, prohibition during certain dates and weather conditions, escort requirements and adoption of the permit system promulgated by the Thousand Islands Bridge Authority.

Jefferson County lies at the foot of the international bridge linking Ivy Lea, Ontario with Collins Landing, New York, and connecting with Interstate Route 81. Thus, any restriction on transportation in Jefferson County imposes an equal restriction on international transportation which may operate over the Thousand Islands Bridge and Interstate Route 81.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive material which became effective on February 1, 1982. Essentially, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or State-designated alternate routes. In Appendix A to 49 CFR Part 177, the Department articulated its policy concerning the relationship between State and local rules and the Federal routing rules contained in Part 177. Appendix A states, inter alia, that a State or local transportation rule is inconsistent with Part 177 if it requires prenotification, escort or unnecessary delay.

Because the transportation regulations of Jefferson County could affect the use of an international bridge and an Interstate System highway, the Department has elected, in accordance with 49 CFR 107.209(b), to issue an administrative ruling on the question of whether or not Resolution No. 81 is inconsistent with the HMTA or the regulations issued thereunder.

2. Public Commment

Comments shall be restricted to the following issue: Whether the requirements set forth in Resolution No. 81 of Jefferson County constitute a local rule which is inconsistent with the HMTA or the regulations issued thereunder.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of Resolution No. 81 as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA-27) should examine the HMTA (49 U.S.C. 1801-1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171-179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201-107.211); and Jefferson County Resolution No. 81 which is provided as Appendix F to this notice.

Commenters are reminded to indicate Docket No. IRA-27 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

3. Public Comment

This notice invites public comment on any or all of eight separate dockets. Because of the number of issues raised, their complexity and the extent of their interrelatedness, it is imperative that

commenters comply with the foregoing instructions concerning distribution, certification, and identification by docket number (IRA-20 through IRA-27). Submissions containing comments on more than one docket should clearly indicate, by the use of sub-headings or similar techniques, the number of the docket to which each comment refers.

Submissions which do not comply with the procedures described herein may not be considered.

Issued in Washington, D.C., on May 6, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

Appendix A.—Department of State Police; State Fire Safety Board; Radioactive Material Transportation

Filed with the Secretary of State on June 28, 1982. These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the state fire safety board by section 3c of Act No. 207 of the Public Acts of 1941, as amended, being § 29.3c of the Michigan Compiled Laws).

R 29.551 Definitions.

Rule 1. As used in these rules:

(a) "Department of public health" means the state department of public health created by section 425 of Act No. 380 of the Public Acts of 1965, as amended, being § 16.525 of the Michigan Compiled Laws.

(b) "Major bridge" means a structure which has a span from shore to shore of more than 250 meters or which spans water which has a maximum depth of more than 15 meters.

(c) "NRC" means the United States nuclear regulatory commission.

(d) "Radioactive material" means irradiated reactor fuel and radioactive wastes that are large quantity radioactive materials as defined in 49 CFR § 173.389(b).

R 29.552 Modification.

Rule 2. The state fire marshal may modify the application of these rules upon a finding that the variation would not result in an undue hazard to life or property.

R 29.553 Application; procedure; content.

Rule 3. Application for approval to transport radioactive material in Michigan shall be submitted in duplicate to the operations division of the department of state police not less than 15 days before the date of the proposed shipment. Upon receipt, the operations division shall immediately forward the information to the fire marshal division and the department of public health. The application shall include all of the following, as applicable:

(a) The proposed route of travel, specifying all of the following:

(i) Each road or rail to be used by route number, name, or other identification.

(ii) Each major bridge to be traversed.

(iii) Each waterway to be traversed for transport by vessel.

(iv) The reasons for the choice of the proposed route of travel from the site of origin to the receiver of the radioactive material, including the designation of alternative routes and the reasons for the selection of the proposed route and the rejection of alternative routes.

(b) The proposed means of conveyance.

(c) The names, addresses, and emergency telephone numbers of the shipper, carrier, and receiver of the radioactive material, including the individual to contact for current shipment information.

(d) A description of the shipment as specified in the provisions of 49 CFR § 172.203(d).

(e) The estimated date and time of all of the following, as applicable:

(i) The departure of the radioactive material from the site of origin.

(ii) The arrival of the radioactive material at the Michigan boundary or at its final destination if the destination is within Michigan.

(iii) The departure of the radioactive material from Michigan.

(f) Attestation to the fact that the vehicle has been safety inspected within a period of 6 months prior to the date of the proposed shipment for compliance with 49 CFR § 396 or Act No. 300 of the Public Acts of 1949, as amended, the Michigan Vehicle Code, by a law enforcement agency acceptable to the state fire marshal and that evidence of such inspection shall be carried in the vehicle.

(g) Copies of any required NRC approval of the proposed route of travel, and any other NRC licensing action specific to the shipment, such as an import license or a license to transport.

(h) A copy of the emergency plan for the carrier which describes procedures to be taken in an emergency to eliminate or minimize the radiation exposure of the public. The plan shall include notification of the state police operations division upon implementation of the plan.

(i) For transport over a major bridge or on a vessel, provisions to submit the proposed recovery plan to the state fire marshal for approval before beginning recovery efforts.

(j) A certification that the shipment will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

R 29.554 Communications.

Rule 4. (1) Radioactive material shall not be transported on a highway or over a major bridge in this state unless the transporting vehicle, or a vehicle accompanying the transporting vehicle, is equipped with continuous 2-way communications by radiotelephone or other means acceptable to the state fire marshal with land-based stations familiar with, and capable of assisting in the implementation of, the emergency plan required by R 29.553(h).

(2) Radioactive material shall not be transported by rail or waterway in this state unless the transporting vehicle or vessel is equipped with communications equipment acceptable to the state fire marshal. Such equipment shall be used for making appropriate notification of any incident which may occur.

R 29.555 Transportation approval; criteria.

Rule 5. Radioactive material shall not be transported in this state without the written approval of the state fire marshal. All of the following criteria shall be satisfied before approval is granted:

(a) The application requirements of R 29.553 have been fulfilled.

(b) The application has been approved in writing by the department of public health.

(c) Certification has been made by a person that the shipment is an will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

(d) The plan required by R 29.553(h) is acceptable to the state fire marshal and the department of public health.

(e) A certificate of compliance for the container has been issued by the NRC, and the container has been tested and approved for hypothetical accident conditions pursuant to the provisions of 10 CFR 71.36.

(f) For transport over a major bridge, the container has been tested and certified, by an agency acceptable to the state fire marshal, to pass a puncture test as described in the provisions of 10 CFR 571.36, except that the free drop, as described in the provisions of 10 CFR part 71, appendix B2, shall equal or exceed the height of the bridge roadway from the water, and the puncture test shall be immediately followed by an immersion test at a depth of water equal to or exceeding the maximum depth of water under the major bridge and for a period of time at least as long as the planned time for recovery.

(g) For transport on a waterway, the container has been tested and certified, by an agency acceptable to the state fire marshal, to pass an immersion test at a depth of water equal to or in excess of the maximum depth of water along the route of travel and for a period of time at least as long as the planned time for recovery.

R 29.556 Approval notification.

Rule 6. Upon granting approval to transport, the state fire marshal shall notify the applicant, in writing, before the shipment of the radioactive material and shall include any conditions or limitations to the approval as determined necessary by the state fire marshal and the department of public health.

R 29.557 Transport notification of department of state police.

Rule 7. Unless otherwise specified in the approval notification, the carrier, driver, or operator transporting radioactive material shall notify the operations division of the department of state police as follows:

(a) Of any schedule change that differs by more than 6 hours from the schedule information previously furnished.

(b) Of any incident causing a delay in the transport of the radioactive material through Michigan.

(c) Of any implementation of the emergency plan submitted pursuant to R 29.553(h). A person implementing the emergency plan shall immediately notify the department of state police.

R 29.558 Schedule information; confidentiality.

Rule 8. Radioactive material shipment schedule information provided to the state fire marshal shall be confidential, except that

the information may be shared with other governmental agencies as required by law or when deemed necessary to protect the public, health and safety. The confidentiality requirement shall terminate 10 days after a shipment has entered or originated within the state for a single shipment whose schedule is not related to the schedule of any subsequent shipment or 10 days after the last shipment has entered or originated within the state for a series of shipments whose schedules are related.

R 29.559 Transport inspection.

Rule 9. Shipments of radioactive material may be inspected by the state fire marshal for compliance with applicable state and federal statutes, rules, and regulations.

R 29.560 Adoption of federal regulations.

Rule 10. (1) The following provisions of the Code of Federal Regulations are adopted by reference in these rules:

(a) 10 CFR § 71.36.

(b) 49 CFR § 172.203(d).

(c) 49 CFR § 173.389(b).

(2) The provisions specified in subrule (1) of this rule may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at cost, or from the office of the State Fire Safety Board, 7150 Harris Drive, Lansing, Michigan 48913, at cost.

Appendix B.—Department of Public Health; Division of Radiological Health; Radioactive Material Transportation

Filed with the Secretary of State on June 29, 1982. These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the department of public health by section 9 of Act No. 380 of the Public Acts of 1965, as amended, and sections 2226, 2233, and 13521 of Act No. 368 of the Public Acts of 1978, as amended, being §§ 16.109, 333.2226, 333.2233, and 333.13521 of the Michigan Compiled Laws)

R 325.5801 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the department of public health.

(b) "Major bridge" means a structure which has a span from shore to shore of more than 250 meters or which spans water which has a maximum depth of more than 15 meters.

(c) "NRC" means the United States nuclear regulatory commission.

(d) "Person" means a person as defined in section 1106 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.1106 of the Michigan Compiled Laws, or a governmental entity as defined in section 1104 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.1104 of the Michigan Compiled Laws.

(e) "Radioactive material" means irradiated reactor fuel and radioactive wastes that are large quantity radioactive materials as defined in 49 C.F.R. § 173.389(b).

(f) "State fire marshal" means the state fire marshal of the department of state police as defined in Act No. 207 of the Public Acts of 1941, as amended, being § 29.1 et seq. of the Michigan Compiled Laws.

R 325.5802 Exemptions.

Rule 2. Upon application therefore or upon its own initiative, the department may grant such exemptions from the requirements of these rules as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

R 325.5803 Application; procedure; content.

Rule 3. Application for approval to transport radioactive material in Michigan shall be submitted to the department through the operations division of the department of state police not less than 15 days before the date of the proposed shipment. An application shall include all the following, as applicable:

(a) The proposed route of travel, specifying all of the following:

(i) Each road or rail to be used by route number, name, or other identification.

(ii) Each major bridge to be traversed.

(iii) Each waterway to be traversed for transport by vessel.

(iv) The reasons for the choice of the proposed route of travel from the site of origin to the receiver of the radioactive material, including the designation of alternative routes and the reasons for the selection of the proposed route and the rejection of alternative routes.

(b) The proposed means of conveyance.

(c) The names, addresses, and emergency telephone numbers of the shipper, carrier, and receiver of the radioactive material, including the individual to contact for current shipment information.

(d) A description of the shipment as specified in the provisions of 49 C.F.R. § 172.203(d).

(e) The estimated date and time of all of the following, as applicable:

(i) The departure of the radioactive material from the site of origin.

(ii) The arrival of the radioactive material at the Michigan boundary or at its final destination if the destination is within Michigan.

(iii) The departure of the radioactive material from Michigan.

(f) Attestation to the fact that the vehicle has been inspected within a period of 6 months prior to the date of the proposed shipment for compliance with the provisions of 49 C.F.R. § 396 or Act No. 300 of the Public Acts of 1949, as amended, being § 257.1 et seq. of the Michigan Compiled Laws, by a law enforcement agency acceptable to the state fire marshal, and that evidence of such inspection shall be carried in the vehicle.

(g) Copies of any required NRC approval of the proposed route of travel and any other NRC licensing action specific to the shipment, such as an import license or a license to transport.

(h) A copy of the emergency plan for the carrier which describes procedures to be taken in an emergency to eliminate or minimize the radiation exposure of the public. The plan shall include a provision for notification of the state police operations division upon implementation of the plan.

(i) For transport over a major bridge or on a vessel, provisions to submit the proposed recovery plan to the department for approval before beginning recovery efforts.

(j) A certification that the shipment will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

R 325.5804 Communications.

Rule 4. Communications capability shall be provided as specified in R 29.554.

R 325.5805 Transportation approval; criteria.

Rule 5. Radioactive material shall not be transported in this state without the written approval of the department. All of the following criteria shall be satisfied before approval is granted:

(a) The application requirements of R 325.5803 have been fulfilled.

(b) Certification has been made by a person that the shipment is and will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

(c) A plan required by R 325.5803(h) has been determined to be acceptable to the department.

(d) A certificate of compliance for the container has been issued by the NRC, and the container has been tested and approved for hypothetical accident conditions pursuant to the provisions of 10 CFR 71.36.

(e) For transport over a major bridge, the container has been tested and certified, by an agency acceptable to the department, to pass a puncture test as described in the provisions of 10 CFR 71.36, except that the free drop as described in the provisions of 10 CFR part 71, appendix B2, shall equal or exceed the height of the bridge roadway from the water, and the puncture test shall be immediately followed by an immersion test at a depth of water equal to or exceeding the maximum depth of water under the major bridge and for a period of time at least as long as the planned time for recovery.

(f) For transport on a waterway, the container has been tested and certified, by an agency acceptable to the department, to pass an immersion test at a depth of water equal to or in excess of the maximum depth of water along the route of travel and for a period of time at least as long as the planned time for recovery.

R 325.5806 Approval notification.

Rule 6. Upon granting approval to transport, the department shall notify the applicant and the state fire marshal, in writing, before the shipment of the radioactive material and shall include any conditions or limitations to the approval as determined necessary by the department.

R 325.5807 Transport notification of department of state police.

Rule 7. Unless otherwise specified in the approval notification, the carrier, driver, or operator transporting radioactive material shall notify the operations division of the department of state police of all of the following:

(a) Any schedule change that differs by more than 6 hours from the schedule information previously furnished.

(b) Any incident causing a delay in the transport of the radioactive material through Michigan.

(c) Any implementation of the emergency plan submitted pursuant to R 325.5803(h). A person implementing the emergency plan shall immediately notify the department of state police, which shall notify the department.

R 325.5808 Schedule information: confidentiality.

Rule 8. Radioactive material shipment schedule information provided to the department shall be confidential, except that the information may be shared with other governmental agencies as requird by law or when deemed necessary to protect the public health and safety. The confidentiality requirement shall terminate 10 days after a shipment has entered or originated within the state for a single shipment whose schedule is not related to the schedule of any subsequent shipment or 10 days after the last shipment has entered or originated within the state for a series of shipments whose schedules are related.

R 325.5809 Transport inspection.

Rule 9. Shipments of radioactive material may be inspected by the department for compliance with applicable state and federal statutes, rules, and regulations.

R 325.5810 Adoption of federal regulations

Rule 10. (1) The following provisions of the Code of Federal Regulations are adopted by reference in these rules:

(a) 10 CFR 71.36.

(b) 49 CFR 172.203(d).

(c) 49 CFR 173.389(b).

(2) The provisions specified in subrule (1) of this rule may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at cost, or from the Department of Public Health, 3500 N. Logan Street, Lansing, Michigan 48909, at cost.

Appendix C.—Radioactive Materials Transportation Rules of the Ogdensburg Bridge and Port Authority

Chapter LXV, New York Code of Rules and Regulations

§ 5701.3 Vehicles requiring special permits or escorts. No vehicle falling within any of the following categories shall be permitted to use the facilities unless a special permit therefor is issued by the Authority Employee in charge, and, if required as a condition of such permit, a special escort is provided and fees, including consulting engineering services if required, therefor paid, in advance, viz:

* * * * *

(f) Vehicles which are transporting or have recently carried explosives, radioactive materials or other dangerous commodities and show any evidence or residue of such materials or commodities.

* * * * *

In determining whether or not such special permits should be issued or, if issued, what conditions should apply thereto, such Authority Employee in charge may confer with the Authority's consulting engineers, counsel and/or whatever other specialists or regulatory agencies he may consider appropriate in the circumstances, but such determination in any given situation shall be the sole and exclusive judgment of such Authority Employee in charge and final and binding upon all persons. Application for a special permit shall be made at least 48 hours in advance of the proposed crossing. If permission is granted, the Authority shall specify the time of the crossing.

§ 5702.1 No vehicle transporting radioactive materials shall be permitted to use the facilities unless the provisions of the St. Lawrence County Local Law No. 10 Regulating the Transportation of Radioactive Materials Through St. Lawrence County shall be fully satisfied and a valid Certificate of Emergency Transport issued for the shipment, if applicable.

§ 5702.2 In addition to the Certificate of Emergency Transportation, responsible state or federal agencies and the carrier shall submit for Authority's prior approval evidence of proper insurance coverage and/or an acceptable indemnification and hold harmless agreement.

§ 5702.3 As a condition of the special permit or escort set forth in 5701.3, the Authority shall specify the time of crossing, provide escort if deemed necessary and be fully compensated for any and all costs associated with the clearance and crossing of the radioactive materials.

Appendix D.—St. Lawrence County Local Law No. 10 for the Year 1980; Local Law Regulating the Transportation of Radioactive Materials Through St. Lawrence County

Be it enacted by the Board of Legislators of the County of St. Lawrence as follows:

Section 1: The St. Lawrence County Legislature hereby regulates the transportation of nuclear materials specified below in or through St. Lawrence County for the purposes of protecting the health and safety of residents until such time as adequate information is made available by Federal and State agencies responsible for radioactive materials to prepare an adequate emergency response plan.

Section 2: A Certificate of Emergency Transport issued by the St. Lawrence County Emergency Services Coordinator-Civil Defense Director shall be required for each shipment of any of the following materials:

1. Plutonium isotopes in any quantity exceeding 2 grams, or 20 curies.

2. Uranium enriched in the isotope U235 exceeding 20 percent of the total uranium content in quantities where the U235 content exceeds one kilogram.

3. Any actinides (elements with atomic number 89 or greater) the activity of which exceeds 20 curies.

4. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements whose activity exceeds 20 curies.

5. Any quantity of radioactive material specified as a "large quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71 and as amended entitled "Packaging of Radioactive Materials for transport", with the exception of Co-60 used for medical radiation therapy or medical research.

Section 3: A Certificate of Emergency Transport may be issued by the Civil Defense Director-Emergency Services Coordinator in consultation with the County Sheriff upon submission of a written request at least five working days prior to the expected date of transport. The written request must include:

1. The nature of the material transported and the possible danger therefrom.

2. The route of transport.

3. The date and time of shipment through the County.

4. Specific emergency response procedures which would be required in case of an accident.

5. A non-refundable payment for one-hundred dollars, payable to St. Lawrence County Treasurer's Department.

Section 4: A Certificate of Emergency Transportation will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns. Economic considerations alone will not be acceptable as justification for the issuance of said certificate.

Section 5: Said Certificate of Emergency Transport will be valid for a period not to exceed 72 hours and must be in posession of the driver of the vehicle while travelling through St. Lawrence County, and must be presented upon request.

Section 6: Violators of any part of this law shall be subject to a fine of not less than one thousand dollars nor more than five thousand dollars.

Section 7: The provisions of this article shall not apply to radiation sources shipped by or for the United States government for military or national security purposes or which are related to national defense and nothing herein shall be construed to require the disclosure of any defense information or restricted data as defined in Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

Appendix E.—Application for Permit To Transport Nuclear materials via the Thousand Islands Bridge

General Information

Your firm _____ has requested by letter dated _____ a permit to use the Thousand Islands Bridge System for the period of _____ to _____ for the purpose of transporting _____ materials.

In order for this Authority to consider the application, the information set forth below must be submitted by your firm.

In addition to the above, the Authority, at its sole discretion, has the right to accept or reject the application for transit.

REQUEST FOR PERMIT TO CROSS THE THOUSAND ISLANDS BRIDGE SYSTEM (check one)

☐ From Collins Landing, New York to Ivy Lea, Ontario

☐ From Ivy Lea, Ontario to Collins Landing, New York

Application Date _____

Name of Company _____

Street Address _____

City ——— State or Province

The company set forth above acknowledges and certifies that with the knowledge of an escort requirement and associated fee that it hereby requests permission to transport the following product.

Product ———
Quantity (lbs.) ———

Note.—A Commodity Data Sheet must be submitted with this application by the Company which more fully describes the product. Failure to include an approved Commodity Data Sheet shall cause the application to be denied.

The Company has contracted to transport the commodity set forth in this application with the firm listed below. The Company submits as set forth below the vehicle data which is required in order for this application to be considered.

Name of Transport Company ———
Street Address ———
City ——— State or Province

Type of Vehicle ———
Gross Vehicle Weight ———
Number of Axles ——— Vehicle Length ———
Vehicle Width ——— Vehicle Height ———

The Company hereby acknowledges that the insurance requirements for the transport of nuclear materials as set forth below must be fully met prior to consideration of the application. In addition, an authorization of transit shall not be issued by the Authority unless the requirements set forth for both United States territory and Canadian territory have been satisfied.

General Information

Applicant shall provide a Certificate of Insurance which shall include not less than thirty (30) days written notice of cancellation of the certified insurance to the Thousand Islands Bridge Authority, Collins Landing, Alexandria Bay, New York 13607.

Insurance Requirements for United States Territory

The certificate holder shall be the Thousand Islands Bridge Authority.

Whichever of the following is applicable shall be certified:

(1) A U.S. Suppliers & Transporters Liability Policy with a limit of liability not less than $160,000,000 each occurrence. Such certificate of insurance shall certify that Amendatory Endorsement NY49 is part of the policy. The named insured shall be the permittee unless the permittee has a contract of haulage with the named insured, in which event the certificate of insurance shall include legal evidence of the contractual relationship. If the permittee has such a contractual arrangement with more than one shipper, such a certificate shall be required for each shipper.

(2) If the permittee has a contract of haulage with an operator of a nuclear facility licensed by the United States Nuclear Energy Commission, the certificate of insurance shall be for a U.S. Facilities Liability Policy with a limit of liability not less than $160,000,000 each occurrence. The named insured shall be the licensee and the certificate of insurance shall contain legal evidence of the contractual relationship between the permittee and the licensee. Such a certificate shall be required for each licensee with whom the permittee has a contract of haulage.

(3) In the event the permittee has a contract of haulage with an agency of the United States government exempt from the nuclear insurance requirements of U.S. federal statute, legal evidence of an indemnity agreement between such U.S. agency and the permittee shall be filed. Such evidence shall include the Thousand Islands Bridge Authority as an entity for indemnification by the U.S. government agency. Thirty days written prior notification of termination of the indemnification agreement shall be required by the Authority.

Ten days written prior notice of a shipment shall be required prior to issuance of an authorization of transit. Such notice shall include the owner or orginator of the shipment in order for the Authority to verify the documentation required in sections 1, 2 or 3 above is on file with the Authority.

The Company hereby submits the following and as attached as evidence of meeting the United States Insurance Requirements.

———
———
———

Insurance Requirements for Canadian Territory

The certificate holder shall be the Thousand Islands Bridge Authority, agent for, and the St. Lawrence Seaway Authority in right of Canada.

Whichever of the following is applicable shall be certified.

(1) A Canadian Suppliers & Transporters Liability Policy with a limit of liability of not less than $75,000,000 each occurrence. Amendatory Endorsement equivalent to U.S.—No. NY49 shall be certified as being part of the policy. The named insured shall be the permittee unless the permittee has a contract of haulage with the named insured in which event legal evidence of the contractual relationship shall be part of the certificate.

(2) In the event the permittee has a contract of haulage with a facility licensed under the Atomic Energy Control Act of Canada, with certificate of insurance shall certify a Canadian Facilities Liability Policy with the named insured being the licensee. The certificate shall include legal evidence of the contractual relationship between the named insured and the permittee. The limit of liability shall be not less than $75,000,000 each occurrence.

(3) In the event the permittee has a contract of haulage with an agency of the Canadian government exempt from the insurance requirements contained in the Nuclear Liability Act of Canada, in lieu of a certificate of insurance legal evidence of an indemnification agreement between the permittee shall be provided. Such evidence shall also include legal evidence that the indemnification agreement extends to include the Thousand Islands Bridge Authority as agent for, and the St. Lawrence Seaway Authority in right of Canada.

Ten days written prior notice of a shipment shall be required prior to issuance of an authorization of transit. Such notice shall include the owner or originator of the shipment in order for the Authority to verify the documentation required in sections 1, 2 or 3 above is on file with the Authority.

The Company hereby submits the following and as attached as evidence of meeting the Canadian Insurance Requirements.

———
———
———

Applicant Certification

I, (name) ———, acting as (position) ———, do hereby certify that the information submitted is true and correct. In addition, the Company has authorized me to submit same on their behalf and with their full knowledge.

———
Signature

———
Company

———
Address

———
Phone Number

Authority Notice

The Authority has reviewed your application for permit to cross the Thousands Islands Bridge System as outlined in this application and dated ———. Your application submitted under the name of ——— Company has been: (check one)

☐ Approved
☐ Denied

Reasons for denial: ———
———
———
———

This permit under # ———
shall be valid from ——— to ——— 19—.

In notifying the Authority of a transcript request, please refer to the permit number set forth above in all correspondence. *A transit request must be submitted for each shipment.* The transit request must be received in the offices of the Authority ten (10) days prior to the scheduled shipment, so to allow a proper review of your general permit and to schedule the escort service.

The Authority shall in writing notify the Company representative as shown on the application within 48 hours after receipt of the date and time that transit will be permitted. In addition and at the same time the Company will be notified of the toll charge as well as the escort fee which must be paid at the time of transit. A copy of this notice must be delivered by the Company to the toll attendant at the time of the approved crossing. The determination as to the date

and time of the crossing shall be made solely by the Thousands Islands Bridge Authority.

Russell Wilcox,

Executive Director, Thousand Islands Bridge Authority, Collins Landing, Alexandria Bay, New York 13607; phone: 315-482-2501.

Appendix F—Resolution No. 81; Regulating the Transport of Radioactive Materials Through Jefferson County

By Supervisor Edward E. Cobb, Chairman, Planning Committee

Whereas the Federal Hazardous Materials Transportation Act (HMTA) provides for over-the-road transport of radioactive materials; and

Whereas recent pronouncements by federal officials identify Interstate 81 as a route for the transport of said materials; and

Whereas Federal regulations make provision for the imposition of local controls which would enhance public safety and not unreasonably restrain or prohibit the transport of said materials: Now, therefore, be it

Resolved, That the Jefferson County Board of Supervisors does hereby put the United States Department of Transportation and Nuclear Regulating Commission on notice that the transport of radioactive waste through and within Jefferson County is conditioned on compliance with the following provisions: That 24 hour prior notification of said transport be duly given to appropriate Jefferson County officials; that front and rear escort service be provided; that said transport only be made during the six month period from May through October; that no movement of said material be made on holidays or during periods of inclement weather; and that the permit system as promulgated by the Thousand Islands Bridge Authority regulating the movement of radioactive materials through the Bridge System be recognized and fully adhered to by the Federal Government and/or agents thereof.

Further resolved, That the Clerk be directed to forward copies of this resolution to the United States Department of Transportation, the Nuclear Regulating Commission, the Nuclear Assurance Corporation, Congressman David O'B. Martin, Governor Hugh L. Carey, the New York State Department of Transportation, Senator H. Douglas Barclay, Assemblyman H. Robert Nortz, U.S. Senator Alfonso M. D'Amato, and U.S. Senator Daniel P. Moynihan.

Seconded by Supervisor:

John C. Kiechle

John Fiorentino

State of New York
County of Jefferson

Jennie M. Adsit

Mark Freeman

I, the undersigned, Clerk of the Board of Supervisors of the County of Jefferson, New York, do hereby certify that I have compared the foregoing copy of Resolution No. 81 of the Board of Supervisors of said County of Jefferson with the original thereof on file in my office and duly adopted by said Board at a meeting of said Board on the 4th day of May, 1982 and that the same is a true and correct copy of such Resolution and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 4th day of May, 1982.

James Merritt,

Clerk, Board of Supervisors, Jefferson County.

[FR Doc. 83-12756 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-60-M

federal register

Thursday
May 12, 1983

Part VI

Department of Energy

Federal Energy Regulatory Commission

Natural Gas Policy Act of 1978;
Determinations by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 888]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 6, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission purusant 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.

NOTICE OF DETERMINATIONS

VOLUME 888

ISSUED MAY 6, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	04/15/83	JA: TX			
8332225	F-04-063182	4224931631		102-3		GOLDAPP #2	ALICE DEEP CROCKETT	480.0	TENNESSEE GAS PIP
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/15/83	JA: TX			
8332251	F-7C-64855	4238300000		108		BOYD "32"	CALVIN (DEAN)	50.0	UNION TEXAS PETRO
-AKERS AND FULTZ INC				RECEIVED:	04/15/83	JA: TX			
8332243	F-09-064520	4223700000		108		J D CRAFT #6	MARINA-MAG (CONGLOMER	2.0	CITIES SERVICE CO
8332244	F-09-064524	4223700000		108		J D CRAFT #8	MARINA-MAG (CONGLOMER	5.5	CITIES SERVICE CO
8332240	F-09-064477	4223700000		108		ROY CHERRYHOMES C WELL #2	MARINA MAG	3.4	CITIES SERVICE CO
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	04/15/83	JA: TX			
8332389	F-04-66085	4221531188		103		YOUNG GAS UNIT WELL #4-L	LOS TORRITOS NORTH (S	150.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/15/83	JA: TX			
8332265	F-04-65080	4213136896		102-4		ARCO HUMBLE FEE GAS UNIT #4	E SEVEN SISTERS	2190.0	TEXAS EASTERN TR/
8332328	F-08-65935	4200333364		103		EMMA COWDEN #107	COWDEN N (STRAWN)	47.0	EL PASO NATURAL G
8332197	F-04-060583	4213134897		103		HAGIST GAS UNIT I #2	HAGIST RANCH (WILCOX	1375.0	NATURAL GAS PIPEL
8332271	F-04-65283	4235532033		103		STATE 45-47 UNIT #4707 U	MUSTANG ISLAND WEST (	600.0	UNITED GAS PIPELI
8332329	F-08-65936	4200333300		103		UNIVERSITY 11 SECTION 13 B-5	MARTIN (CLEARFORK LO)	14.0	PHILLIPS PETROLEU
-BANLEE ENERGY				RECEIVED:	04/15/83	JA: TX			
8332390	F-7B-66086	4209331065		102-4		4-WAY FARMS #2 (103416)	B L E (DUFFER)	17.0	SOUTHWESTERN GAS
-BARNHART CO				RECEIVED:	04/15/83	JA: TX			
8332212	F-03-062265	4215731393		102-3		HARRISON INTERESTS LTD UNIT #2	KATY SOUTH (FIRST WIL	730.0	HOUSTON PIPE LINE
-BLAKE HAMMAN				RECEIVED:	04/15/83	JA: TX			
8332377	F-09-66064	4249700000		108		H W STRICKLAND #4	DARNER HAMMOH (BEND C	0.0	CITIES SERVICE CO
-BOBBY BONNER				RECEIVED:	04/15/83	JA: TX			
8332281	F-08-65399	4200333352		103		ARGO KNIGHT #1	FUHRMAN MASCHO	6.0	PHILLIPS PETROLEU
-C & K PETROLEUM INC				RECEIVED:	04/15/83	JA: TX			
8332245	F-08-064601	4243100000		103		FOSTER 33-7	CONGER (PENN)	0.0	VALERO TRANSMISSI
-CALIX CORP				RECEIVED:	04/15/83	JA: TX			
8332273	F-01-65309	4217731356		102-4		JONES #1 RR ID #08596	PEACH CREEK (AUSTIN C	145.0	
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/15/83	JA: TX			
8332221	F-09-062987	4249700000		103		D P DUNN #2	BOONESVILLE (BEND CON	0.0	NATURAL GAS PIPEL
8332206	F-03-061433	4204100000		102-2		DALID #1	KURTEN (WOODBINE)	6.0	
8332320	F-04-65902	4227331320		108		G P WARDNER #138	STRATTON	0.0	TENNESSEE GAS PIP
-CHEVRON U S A INC				RECEIVED:	04/15/83	JA: TX			
8332298	F-09-65506	4209732138		103		BAUGH UNIT #1	SIVELLS BEND	19.0	
8332184	F-03-055479	4236130314		102-4		POWELL LUMBER CO #1	LONG PRAIRIE (11,800'	547.5	VALERO TRANSMISSI
8332381	F-8A-66068	4241532307		103		SACROC UNIT #11-14	KELLY - SNYDER	41.0	EL PASO NATURAL G
8332382	F-8A-66069	4241532304		103		SACROC UNIT #118-14	KELLY - SNYDER	117.0	EL PASO NATURAL G
8332379	F-8A-66066	4241532313		103		SACROC UNIT #33-15	KELLY - SNYDER	110.0	EL PASO NATURAL G
8332380	F-8A-66067	4241532315		103		SACROC UNIT #86-12	KELLY - SNYDER	24.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:	04/15/83	JA: TX			
8332177	F-06-051174	4234730650		102-4		JACKSON E #1	APPLEBY N (TRAVIS PEA	307.0	LIBERTY NATURAL G
8332174	F-06-049971	4234730657		102-4		LEE E-1	APPLEBY N (TRAVIS PEA	294.0	LIBERTY NATURAL G
-CLAYTON W WILLIAMS JR				RECEIVED:	04/15/83	JA: TX			
8332200	F-03-060709	4214900000		102-2		ANION PIETSCH UNIT #1	GIDDINGS (A/C GAS)	0.0	VALERO TRANSMISSI
-COATES ENERGY TRUST				RECEIVED:	04/15/83	JA: TX			
8332227	F-04-063394	4250531581		103		ANGELINA GARCIA TREVINO ET AL #4	SAN RAFAEL (MARTINEZ)	82.0	VALERO INTERSTATE

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO
-CONOCO INC		
8332388	F-08-66084	4210931663
-CORDOVA RESOURCES INC		
8332346	F-7B-66005	4213332875
8332344	F-7B-66003	4213332893
8332345	F-7B-66004	4213332548
-CORPENING ENTERPRISES		
8332297	F-09-65503	4223732126
8332295	F-09-65500	4223731946
8332296	F-7B-65501	4236730889
-CROWN CENTRAL PETROLEUM CORP		
8332275	F-02-65318	4229732928
-DELTA DRILLING CO		
8332293	F-7C-65492	4210500000
-DELTA OIL & GAS CO		
8332289	F-7B-65462	4242900000
-DIAMOND SHAMROCK CORPORATION		
8332336	F-08-65945	4222732439
-DIRKS PETROLEUM CORP		
8332337	F-02-65948	4202531545
8332338	F-02-65949	4202531546
8332339	F-02-65950	4202531554
8332340	F-02-65951	4202531567
-DYNE OIL & GAS INC		
8332176	F-10-050956	4242130235
-EDWIN L & BERRY R COX		
8332205	F-04-061426	4247933411
8332231	F-04-063657	4235531983
-EL PASO NATURAL GAS COMPANY		
8332170	F-10-047501	4217923702
8332182	F-10-054499	4217923711
8332181	F-10-054313	4217923712
8332179	F-10-052825	4217923713
8332192	F-10-058236	4217923728
8332218	F-10-062670	4248320071
8332180	F-10-052827	4217923735
8332166	F-10-029850	4208726179
8332196	F-10-060460	4208726180
8332169	F-10-037519	4217923744
-ENERGETICS INC		
8332385	F-10-66072	4237530896
8332384	F-10-66071	4237530897
8332383	F-10-66070	4237530894
-ENRE CORP		
8332249	F-09-64704	4212100000
-EXXON CORPORATION		
8332236	F-03-063992	4205132319
8332261	F-08-64947	4208333398
8332208	F-06-061640	4218330545
8332314	F-04-65869	4226130617
8332199	F-03-060691	4215731298
8332392	F-04-66114	4226130764
8332301	F-04-65561	4227331727
8332183	F-06-054608	4240100000
8332248	F-04-64700	4224730834
8332238	F-06-064184	4236531429
8332304	F-7C-65614	4223532022
8332300	F-04-65560	4204730726
8332288	F-8A-65455	4216532468
-FARGO ENERGY CORP		
8332223	F-03-063092	4205132375
-FOB OIL CORP		
8332207	F-7B-061525	4208332604
-FLORIDA GAS EXPLORATION COMPANY		
8332269	F-06-65181	4200131342
-GENE ROBERTSON OIL CO		
8332306	F-09-65685	4223733163
-GETTY OIL COMPANY		
8332219	F-03-062741	4204100000
8332363	F-06-66035	4236500000
8332178	F-03-052392	4204100000
8332185	F-06-055643	4236500000
8332360	F-06-66032	4236500000
8332361	F-06-66033	4236500000
8332359	F-06-66031	4236500000
8332362	F-06-66034	4236500000
8332386	F-8A-66079	4221900000
8332322	F-06-65907	4236500000
8332364	F-06-66036	4236500000
8332164	F-06-024968	4236500000
-GRUY MANAGEMENT SERVICE CO		
8332224	F-03-063132	4248131989
-GULF OIL CORPORATION		
8332352	F-09-66021	4223734875
8332350	F-7C-66019	4238332427
8332351	F-7C-66020	4238332428
8332214	F-08-062481	4237133989
-HARRIS R FENDER		
8332266	F-06-65095	4242330626
-HEXAGON OIL & GAS INC		
8332277	F-7B-65369	4214330777
-HINTON PRODUCTION COMPANY		
8332186	F-05-056011	4246730532
-HUFFCO PETROLEUM CORP		
8332267	F-04-65122	4213136101
8332250	F-04-64716	4213136101
-HUMBLE EXPLORATION CO INC		
8332172	F-03-048268	4214900000
-HUNT OIL COMPANY		
8332286	F-08-65437	4222732952
8332299	F-08-65546	4222732971
8332220	F-06-062846	4236531393
-INDIAN WELLS OIL CO		
8332387	F-7C-66081	4241331269

D	SEC(1)	SEC(2)	WELL NAME
	RECEIVED:	04/15/83	JA: TX
103			RAMSEY "44" #7 (27636)
	RECEIVED:	04/15/83	JA: TX
103			NORTH PIONEER UNIT #1002
103			NORTH PIONEER UNIT #1102
103			NORTH PIONEER UNIT #1505
	RECEIVED:	04/15/83	JA: TX
108			BRYANT #1
108			L B SMITH #1
108			RISCKY-MONTGOMERY #2
	RECEIVED:	04/15/83	JA: TX
103			J W MCCLELLAND #4
	RECEIVED:	04/15/83	JA: TX
108			HELBING "18" #1
	RECEIVED:	04/15/83	JA: TX
108			ELLIS-ROBBINS RRC #18068
	RECEIVED:	04/15/83	JA: TX
102-4			ROYCE WALKER #1-2
	RECEIVED:	04/15/83	JA: TX
108			AUSTIN E BROWN #1B
108			AUSTIN E BROWN #2B
108			AUSTIN E BROWN #3B
108			AUSTIN E BROWN #4B
	RECEIVED:	04/15/83	JA: TX
103			SPARKS-BROWDER #1
	RECEIVED:	04/15/83	JA: TX
102-4	107-TF		ALLEY #1
102-4			STATE TRACT 750 #1
	RECEIVED:	04/15/83	JA: TX
108-PB			DARSEY #2
108-PB			HANNER #1
108-PB			HERRINGTON #1
108-PB			HESS #1
108-PB			JOHNSTON #1
108			LAYCOCK 3-B
108-PB			MAGEE #1
108-PB			MCDONELL #5
108-PB			MCDONELL #6
108-PB			REEVES #1
	RECEIVED:	04/15/83	JA: TX
103			MASTERSON G-47 (03839)
103			MASTERSON G-48 (03839)
103			MASTERSON G-49 (03839)
	RECEIVED:	04/15/83	JA: TX
102-4			DUESSEN-DUNN UNIT #1
	RECEIVED:	04/15/83	JA: TX
102-2			COOKS POINT UNIT 6 #2
103			ELIZABETH ARMSTRONG D #1
102-4	107-TF		JOHN BEN SHEPPERD GAS UNIT B #1
103			K R SAN JOSE DE LA PARRA 36-D103594
103			KATY GAS FIELD UNIT #2 W-64
102-4			KING RANCH BADENO 12 (103747)
102-4			KING RANCH TIJERINA A-76 (08935)
102-2	107-TF		L V MINOR GAS UNIT #1 #1
102-4			MRS A M K BASS "B" 17-F
103	107-TF		NELLE OWENS #3
103			PEARL WILLIAMS B #13
102-4			RJK JR TR LOS MUERTOS PAS 34 087352
103			ROBERTSON CLEARFORK UNIT #5403
	RECEIVED:	04/15/83	JA: TX
102-2			FREEMAN UNIT N-1
	RECEIVED:	04/15/83	JA: TX
102-2	103		MILLER RANCH #1
	RECEIVED:	04/15/83	JA: TX
102-4			J W MILLS "A" #1
	RECEIVED:	04/15/83	JA: TX
103			DR JAGODA A-1 RRC# 20472
	RECEIVED:	04/15/83	JA: TX
102-2			C W MOODY #1-L
108			C W STANFORD #1 RRC LEASE NO 00126
102-2			G F CARTER #1
103	107-TF		HARRIS-HARDIN #1
108			LAGRONE BROTHERS RRC LEASE #00117
108			LAURA YOUNGBLOOD #1 RRC 10095
108			LEAMON CREECH #1 RRC LEASE #00108
108			R P DAVIDSON #1 RRC LEASE NO 00110
103			SYLVESTER #3
108			W B POWELL #1 RRC ID # 30184
108			WERNER-WATKINS #1 RRC LEASE #00133
103			WHITFIELD UNIT "A" #1
	RECEIVED:	04/15/83	JA: TX
103			M DORRIS LEVERIDGE UNIT WELL #3
	RECEIVED:	04/15/83	JA: TX
103			I G YATES WELL #20
103			STATE "WP" WELL #5
103			STATE "WW" WELL #2
103			WINFIELD-HILLIN WELL #1
	RECEIVED:	04/15/83	JA: TX
102-4			PINEDALE LAKE CO INC #1
	RECEIVED:	04/15/83	JA: TX
102-4	103		CALLAWAY #1
	RECEIVED:	04/15/83	JA: TX
102-4			JOHNSON #1
	RECEIVED:	04/15/83	JA: TX
103			D C WIEDERKEHR #1
102-4			D C WIEDERKEHR #1
	RECEIVED:	04/15/83	JA: TX
102-2	103		MARY BELLE #1
	RECEIVED:	04/15/83	JA: TX
102-4			BRINDLEY-COWDEN #1
102-4			BRINDLEY-COWDEN #2
102-2	107-TF		LUKE MOTLEY UNIT #3
	RECEIVED:	04/15/83	JA: TX
103	107-TF		TAYLOR #3

FIELD NAME	PROD	PURCHASER
GERALDINE (DELAWARE 3	13.1	EL PASO NATURAL G
EASTLAND COUNTY REGUL	12.1	EL PASO HYDROCARB
EASTLAND COUNTY REGUL	2.9	EL PASO HYDROCARB
EASTLAND COUNTY REGUL	0.4	EL PASO HYDROCARB
HOEFLE (POOL)	6.0	SOUTHWEST GAS PIP
JACK COUNTY REGULAR	5.0	TEXAS UTILITIES F
TOTO (STRAWN LOWER)	3.0	TEXAS UTILITIES F
WEST OAKVILLE (SLICK	73.0	DELHI GAS PIPELIN
OZONA (CANYON)	0.0	NORTHERN NATURAL
STEPHENS COUNTY REGUL	0.0	WARREN PETROLEUM
BIG SPRING	115.0	GETTY OIL CO
RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
TEXAS HUGOTON	0.0	DIAMOND SHAMROCK
GATO CREEK	730.0	
TULE LAKE N E	500.0	
PANHANDLE WEST	30.5	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	14.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE - EAST	19.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	16.0	EL PASO NATURAL G
PANHANDLE (RED CAVE)	36.5	COLORADO INTERSTA
PANHANDLE (RED CAVE)	52.6	COLORADO INTERSTA
PANHANDLE (RED CAVE)	88.9	COLORADO INTERSTA
MONTEATH (ATOKA UPPER	281.0	TEXAS UTILITIES F
GIDDINGS (AUSTIN CHAL	60.0	FERGUSON CROSSING
MEANS	15.0	
GLADEWATER S (HAYNESV	730.0	TEJAS GAS CORP
CALANDRIA (I-46)	400.0	ARMCO STEEL CORP
KATY S (FIRST WILCOX)	547.0	ARMCO STEEL CORP
SAN JOSE SOUTH (H-41)	1033.0	ARMCO STEEL CORP
T-C-B EAST (20-I-3)	15.0	ARMCO STEEL CORP
OAK HILL NW (COTTON V	730.0	ARMCO STEEL CORP
KELSEY DEEP (ZONE 18-	750.0	TRUNKLINE GAS CO
CARTHAGE (COTTON VALL	400.0	TEJAS GAS CORP
DOVE CREEK SOUTH (650	10.0	
EL AZUL (H-42)	250.0	ARMCO STEEL CORP
ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
BIG A TAYLOR	1080.0	PHILLIPS PETROLEU
COLEMAN COUNTY REGULA	257.9	STRIGINE GAS CO
PURT WEST (RODESSA 10	73.8	ESPERANZA PIPELIN
MARINA-MAG (CONGL)	11.0	LONE STAR GAS CO
N BRYAN (GEORGETOWN)	0.0	FERGUSON CROSSING
CARTHAGE	7.0	TEXAS GAS TRANSMI
N BRYAN (GEORGETOWN)	0.0	FERGUSON CROSSING
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
CARTHAGE	13.0	TEXAS GAS TRANSMI
CARTHAGE (TRAVIS PEAK	5.0	UNITED GAS PIPELI
CARTHAGE	13.0	TEXAS GAS TRANSMI
CARTHAGE	4.0	UNITED GAS PIPELI
LEVELLAND	18.0	AMOCO PIPELINE CO
CARTHAGE (L PETTIT)	14.0	TEXAS GAS TRANSMI
CARTHAGE	14.0	TEXAS GAS TRANSMI
CARTHAGE (TRAVIS PEAK	0.0	UNITED GAS PIPELI
BERNARD EAST (7700')	0.0	TENNESSEE GAS PIP
BOONSVILLE (CADDO CON	11.0	NATURAL GAS PIPEL
AMIGO (SAN ANDRES)	17.7	NORTHERN NATURAL
AMIGO (SAN ANDRES)	27.9	NORTHERN NATURAL
USM (QUEEN)	17.0	NORTHERN NATURAL
DRISKELL LAKE (RODESS	35.0	LONE STAR GAS CO
LIBERTY OAK (BIG SALI	193.0	INTRASTATE GATHER
MARTINS MILL (RODESSA	500.0	LONE STAR GAS CO
EAST 76 (WILCOX) FIEL	122.8	TENNESSEE GAS PIP
EAST 76 (WILCOX) FIEL	122.4	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
MOORE (DEEP FSLM)	54.0	EL PASO HYDROCARB
MOORE (DEEP FSLM)	54.0	EL PASO HYDROCARB
CARTHAGE (COTTON VALL	0.0	DELHI GAS PIPELIN
PAGE RANCH (CANYON)	0.0	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JAMES E HOLDEN				RECEIVED:	04/15/83	JA: TX			
8332203	F-04-061265	4235532069		103		R MORGAN PROPERTIES	WILDCAT	150.0	VICTORIA GAS CORP
-KIMBARK OIL & GAS CO				RECEIVED:	04/15/83	JA: TX			
8332282	F-08-65402	4217331351		103		ENSERCH-FRYSAK #1	SPRABERRY (TREND AREA	18.5	PHILLIPS PETROLEU
8332283	F-08-65403	4217331360		103		ENSERCH-FRYSAK "A" #2	SPRABERRY (TREND AREA	18.5	PHILLIPS PETROLEU
-L M YOUNG				RECEIVED:	04/15/83	JA: TX			
8332272	F-7B-65298	4204933403		102-4		R J GOODALL "B" #5	DALE (CADDO)	24.0	EL PASO HYDROCARB
-LOUISIANA CAMPBELL ENERGY CORP				RECEIVED:	04/15/83	JA: TX			
8332241	F-03-064495	4248132425		102-4		N D CORBETT #4	SPANISH CAMP (FRIO 41	182.5	NATURAL GAS PIPEL
-MARALO INC				RECEIVED:	04/15/83	JA: TX			
8332348	F-08-66015	4200333294		103		LARIO SLOAN #2	DEEP ROCK (PENN)	1.0	PHILLIPS PETROLEU
8332347	F-08-66014	4200333144		103		LARIO SLOAN #3	DEEP ROCK (PENN)	6.0	PHILLIPS PETROLEU
-MCFARLANE OIL CO INC				RECEIVED:	04/15/83	JA: TX			
8332276	F-02-65368	4246900000		103		PICKERING & ROOS #33-C	PLACEDO WEST (3900)	0.0	TENNECO CHEMICALS
-MCIVER INC				RECEIVED:	04/15/83	JA: TX			
8332217	F-7B-062596	4208333197		102-4		WINNIE HAYNES #3	TRICKHAM CROSSCUT	0.0	LONE STAR GAS CO
-MIN-TEX EXPLORATION CORP				RECEIVED:	04/15/83	JA: TX			
8332213	F-7B-062317	4209330859		102-4		GLOVER #1 (19199)	GORMAN EAST (MARBLE F	18.0	LONE STAR GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/15/83	JA: TX			
8332167	F-09-030535	4249700000		108-ER		BILBERRY-MCCLURE #5 35493	BOONSVILLE (CONSOLIDA	13.0	NATURAL GAS PIPEL
8332187	F-09-056615	4249700000		108-ER		CLARA D RICHARDSON #2 8070437	BOONSVILLE (BEND CONG	11.4	NATURAL GAS PIPEL
8332171	F-7B-047765	4236700000		108-ER		G D WILEY #4 891453	CARTER CREEK (BEND CO	11.8	SOUTHWESTERN GAS
8332175	F-09-050698	4249700000		108-ER		J T MEADOWS #1 828739	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
8332198	F-09-060673	4249700000		108-ER		L L BURRESS #1	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8332165	F-09-027892	4249700000		108-ER		OTIS MEEKS #1 28740	BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
8332193	F-09-059640	4249700000		108-ER		W A KINDLE #1	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-MORROW RESOURCES INC				RECEIVED:	04/15/83	JA: TX			
8332246	F-7C-064619	4245131123		102-2	103	BROWN #11	K W B (STRAWN)	0.0	LONE STAR GAS CO
-MR OIL CO				RECEIVED:	04/15/83	JA: TX			
8332375	F-08-66061	4247532564		103		UNIVERSITY DR #2	WICKETT SOUTH (YATES)	16.0	CABOT PIPELINE CO
8332376	F-08-66062	4247532565		103		UNIVERSITY DR #3	WICKETT SOUTH (YATES)	0.0	CABOT PIPELINE CO
-MV STEWART/EAGLE PETROLEUM				RECEIVED:	04/15/83	JA: TX			
8332242	F-02-064508	4246900000		102-4		WILLIAM RAY II #1	WILDCAT	0.0	
-NATURAL GAS AMADARKO INC				RECEIVED:	04/15/83	JA: TX			
8332202	F-10-061163	4229531171		103		LOESCH #1	BRADFORD (CLEVELAND)	182.0	TRANSWESTERN PIPE
8332215	F-10-062526	4235731206		102-4		PLETCHER 1-20	PERRYTON WEST (MORROW	146.0	PHILLIPS PETROLEU
8332216	F-10-062527	4229531235		102-4		SCHULTZ 3-173	LEAR (MORROW UPPER)	240.0	TRANSWESTERN PIPE
8332201	F-10-061132	4229531177		103		SELL 1-588	NORTHRUP (CLEVELAND)	145.0	TRANSWESTERN PIPE
-NEWTON OIL & GAS CORP				RECEIVED:	04/15/83	JA: TX			
8332226	F-04-063245	4247933424		103	107-TF	BARREDA #4	LAS TIENDAS (OLMOS)	500.0	TEJAS GAS CORP
8332209	F-04-061923	4247900000		103	107-TF	PALAFOX EXPL CO "B" #3	LAS TIENDAS (OLMOS)	146.0	LONE STAR GAS CO
-NICHOLAS PETROLEUM				RECEIVED:	04/15/83	JA: TX			
8332418	F-7B-66140	4205932271		102-4		BRASHEAR 4-C #1 (083452)	NICHOLAS (DUFFER)	52.0	EL PASO HYDROCARB
8332417	F-7B-66139	4205932021		102-4		CUNNINGHAM #1 (078105)	NICHOLAS (DUFFER)	94.0	EL PASO HYDROCARB
8332416	F-7B-66138	4205932112		102-4		CUNNINGHAM #2 (082189)	NICHOLAS (DUFFER)	20.0	EL PASO HYDROCARB
8332415	F-7B-66137	4205932111		102-4		CUNNINGHAM #3 (082139)	NICHOLAS (DUFFER)	33.0	EL PASO HYDROCARB
8332414	F-7B-66136	4205932230		102-4		CUNNINGHAM 4-C #1 (082677)	NICHOLAS (DUFFER)	12.0	EL PASO HYDROCARB
8332413	F-7B-66135	4205932101		102-4		FORBES #1 (086421)	NICHOLAS (DUFFER)	16.0	EL PASO HYDROCARB
8332412	F-7B-66134	4205932124		102-4		FORBES #2 (16552)	NICHOLAS (DUFFER)	4.0	EL PASO HYDROCARB
8332411	F-7B-66133	4205932272		102-4		FORBES 3-B #1 (16497)	NICHOLAS (DUFFER)	22.0	EL PASO HYDROCARB
8332410	F-7B-66132	4205932083		102-4		GAGE #1 (082458)	NICHOLAS (DUFFER)	108.0	EL PASO HYDROCARB
8332407	F-7B-66129	4205932043		102-4		GLOVER -A- #2 (14713)	NICHOLAS (DUFFER)	42.0	EL PASO HYDROCARB
8332409	F-7B-66131	4205932044		102-4		GLOVER #1 (14712)	NICHOLAS (DUFFER)	105.0	EL PASO HYDROCARB
8332408	F-7B-66130	4205932113		102-4		GLOVER #4 (082133)	NICHOLAS (DUFFER)	30.0	EL PASO HYDROCARB
8332406	F-7B-66128	4205932085		102-4		IRVIN #1 (14711)	NICHOLAS (DUFFER)	30.0	EL PASO HYDROCARB
8332405	F-7B-66127	4205932109		102-4		IRVIN #2 (082140)	NICHOLAS (DUFFER)	39.0	EL PASO HYDROCARB
8332404	F-7B-66126	4205932084		102-4		JONES #1 (14983)	NICHOLAS (DUFFER)	70.0	EL PASO HYDROCARB
8332403	F-7B-66125	4205932110		102-4		JONES #2 (089976)	NICHOLAS (DUFFER)	31.0	EL PASO HYDROCARB
8332402	F-7B-66124	4205932314		102-4		MCCLURE 1-A #1 (16549)	NICHOLAS (DUFFER)	14.0	EL PASO HYDROCARB
8332397	F-7B-66119	4205932329		102-4		MCCLURE 1-B #1 (16088)	NICHOLAS (DUFFER)	39.0	EL PASO HYDROCARB
8332401	F-7B-66123	4205932315		102-4		MCCLURE 2-A #1 (15894)	NICHOLAS (DUFFER)	55.0	EL PASO HYDROCARB
8332396	F-7B-66118	4205932330		102-4		MCCLURE 2-B #1 (15866)	NICHOLAS (DUFFER)	145.0	EL PASO HYDROCARB
8332400	F-7B-66122	4205932459		102-4		MCCLURE 3-A #1 (15865)	NICHOLAS (DUFFER)	47.0	EL PASO HYDROCARB
8332395	F-7B-66117	4205932456		102-4		MCCLURE 3-B #1 (16591)	NICHOLAS (DUFFER)	31.0	EL PASO HYDROCARB
8332399	F-7B-66121	4205903240		102-4		MCCLURE 4-A #1 (15863)	NICHOLAS (DUFFER)	129.0	EL PASO HYDROCARB
8332394	F-7B-66116	4205932455		102-4		MCCLURE 4-B #1 (16219)	NICHOLAS (DUFFER)	10.0	EL PASO HYDROCARB
8332398	F-7B-66120	4205932496		102-4		MCCLURE 5-A #1 (16485)	NICHOLAS (DUFFER)	9.0	EL PASO HYDROCARB
-NOW PETROLEUM CO				RECEIVED:	04/15/83	JA: TX			
8332330	F-09-65938	4223734567		102-4		M P HOEFLE "B" #5 22571	ANTELOPE SE (MARBLE F	65.0	SOUTHWESTERN GAS
-OJB INC				RECEIVED:	04/15/83	JA: TX			
8332287	F-7C-65445	4210500000		103		CHILDRESS 22-2	OZONA (CANYON SAND)	36.0	VALERO TRANSMISSI
-PANHANDLE ENERGY CORP				RECEIVED:	04/15/83	JA: TX			
8332319	F-10-65892	4206531289		103		MICHELLE "M" #1 (ID# 85297)	PANHANDLE CARSON	50.0	GETTY OIL CO
8332317	F-10-65890	4206531290		103		MICHELLE "M" #2 (ID# 85297)	PANHANDLE CARSON	40.0	GETTY OIL CO
8332318	F-10-65891	4206531291		103		MICHELLE "M" #3 (ID# 85297)	PANHANDLE CARSON	40.0	GETTY OIL CO
-PAUL DE CLEVA				RECEIVED:	04/15/83	JA: TX			
8332194	F-09-059934	4212100000		103		GIBBS #1	WILDCAT	0.0	LONE STAR GAS CO
-PEEJAY EXPLORATION INC				RECEIVED:	04/15/83	JA: TX			
8332264	F-7B-65064	4213333533		103		SIBLEY #1	EASTLAND COUNTY REGUL	41.0	NORTHERN GAS PROD
-PEND OREILLE OIL & GAS CO				RECEIVED:	04/15/83	JA: TX			
8332268	F-04-65164	4240931676		102-4		TEX MED PROF BLDG CORP #2	PORTLAND S	1022.0	HOUSTON PIPELINE
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/15/83	JA: TX			
8332284	F-06-65423	4200500000		108		JOHN REDDITT #1	PLATT/PETTIT LOWER	11.0	TEXAS EASTERN TRA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/15/83	JA: TX			
8332321	F-10-65906	4217900000		108		GATSY #4	PANHANDLE GRAY	0.0	
-PYRO ENERGY CORP				RECEIVED:	04/15/83	JA: TX			
8332237	F-04-064176	4224731423		102-4		C MESTENA '391' #1	COYOTE W (6000') PROP	0.0	AMERICAN PIPELINE
-R C HAGENS				RECEIVED:	04/15/83	JA: TX			
8332222	F-04-063072	4247933465		102-2		F LOPEZ #1	WILDCAT	182.0	ESPERANZA TRANSPO
-RIDGE OIL CO				RECEIVED:	04/15/83	JA: TX			
8332233	F-7B-063687	4213334333		102-4	103	COOPER #1	RANGER NW (MARBLE FAL	14.4	COMPRESSOR RENTAL
8332228	F-7B-063491	4213334430		102-4	103	J C HARRELL #1	RANGER (BLACK LIME WE	13.0	COMPRESSOR RENTAL
8332315	F-7B-65879	4213334456		103		MCDONALD #1	RANGER NW (MARBLE FAL	37.1	COMPRESSOR RENTAL
8332316	F-7B-65880	4213334438		102-4	103	NANIE WALKER #2	RANGER NW (MARBLE FAL	9.0	COMPRESSOR RENTAL
8332210	F-7B-061939	4242933458		102-4	103	RODGERS #1	RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
8332234	F-7B-063715	4213334439		102-4	103	SQUYRES #1	RANGER NW (MARBLE FAL	43.2	COMPRESSOR RENTAL
-SAG ENERGY INC				RECEIVED:	04/15/83	JA: TX			
8332263	F-7B-65009	4236732424		102-4		FORD UNIT #1	MOBY DICK (CONGL)	90.0	SOUTHWESTERN GAS
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/15/83	JA: TX			
8332366	F-03-66042	4219931800		102-4		WALKER PETTIT KIRBY #4	SOUR LAKE E (KIRBY)	635.0	TEJAS GAS CORP
-SEGRest-WARD JOINT VENTURE				RECEIVED:	04/15/83	JA: TX			
8332173	F-06-048810	4218300000		103	107-DP	TRUDIE BRUTON #1	WILLOW SPRINGS-MACKEY	0.0	ARKANSAS LOUISIAN
-SHELL OIL CO				RECEIVED:	04/15/83	JA: TX			
8332313	F-10-65865	4234100000		108		KELLY #1-2	PANHANDLE WEST	14.8	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8332309	F-08-65861	4247500000		108		SEALY SMITH FOUNDATION #30
8332307	F-8A-65859	4216500000		108		S WASSON CLEARFORK UT NO 74035
8332308	F-08-65860	4213500000		108		THOMAS-B-TRACT 1 NO 17
8332312	F-08-65864	4213500000		108		TXL-D- #6
8332311	F-08-65863	4213500000		108		TXL-E- #4
8332310	F-08-65862	4213500000		108		TXL-E-#3
-SHORTES V M & MABEL F G				RECEIVED:		04/15/83 JA: TX
8332353	F-7B-66023	4208300000		102-2		R M TOBIN #5
-SO-TEX PETROLEUM, INC.				RECEIVED:		04/15/83 JA: TX
8332294	F-7B-65498	4244132308		102-4		JANET BURNS #1
-SOJOURNER DRILLING CORP				RECEIVED:		04/15/83 JA: TX
8332374	F-7B-66056	4241734838		102-4		WALKER-BUCKLER #A-3 (103286)
-SONAT EXPLORATION COMPANY				RECEIVED:		04/15/83 JA: TX
8332168	F-06-037332	4241930324		103		PICKERING LUMBER CO #B-5
-SOUTHEASTERN RESOURCES CORP				RECEIVED:		04/15/83 JA: TX
8332323	F-7B-65908	4213334227		102-4		M K COURTNEY "A" #5 (18887)
-SOUTHLAND ROYALTY CO				RECEIVED:		04/15/83 JA: TX
8332326	F-08-65913	4243131239		103		FLINT ESTATE "A" #3
8332325	F-08-65912	4246131946		103		ONEAL SAN ANDRES UNIT #66
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		04/15/83 JA: TX
8332334	F-08-65943	4200300000		108		ATLANTIC HOLT #3
8332332	F-08-65941	4249500000		108		BROWN ALTMAN A/C-7 #7
8332391	F-09-66111	4227531298		102-4		FANT EST "2A" #3
8332262	F-01-64986	4212732410		103		FROST NATL BANK TRUSTEE #31
8332331	F-01-65948	4213700000		108		HOMER RUDASILL #3
8332333	F-04-65942	4242700000		108		I Y GARCIA #3
8332327	F-08-65927	4249500000		108		J B WALTON #5
8332247	F-06-064647	4236531486		103	107-TF	LLOYD MOORE GAS UNIT #2
8332335	F-01-65944	4213700000		108		S A SHANKLIN #1
-SUPERIOR OIL CO				RECEIVED:		04/15/83 JA: TX
8332191	F-02-058170	4228531660		102-2	107-TF	ALBERT SMOLIK #1
8332198	F-04-057310	4247932872		107-TF		DANIEL FLORES #4
8332204	F-03-061378	4205132332		102-2	103	J D EDWARDS #2
-TENNECO OIL COMPANY				RECEIVED:		04/15/83 JA: TX
8332341	F-10-65967	4242130215		108		FUENTES #1-104
8332342	F-10-65968	4242100000		108		J L HASS #1
-TEXACO INC				RECEIVED:		04/15/83 JA: TX
8332189	F-8A-056966	4250132044		103		ROBERTS UNIT #2727
8332230	F-08-063529	4243131243		103		STERLING "N" FEE #5
-TEXAS CRUDE INC				RECEIVED:		04/15/83 JA: TX
8332229	F-8A-063518	4216500000		103		CAIN #1-10 WELL
8332378	F-8A-66065	4216500000		103		NORMAN #5-9
-THE ANSCHUTZ CORPORATION				RECEIVED:		04/15/83 JA: TX
8332239	F-04-064191	4204731221		102-4		STELLA CASEY #1
-TOT RICHARDS DOZER INC				RECEIVED:		04/15/83 JA: TX
8332280	F-7B-65396	4244733098		102-4		DARLA JANICE #6
-TXO PRODUCTION CORP				RECEIVED:		04/15/83 JA: TX
8332278	F-08-65373	4237133774		103		ARCO "75" #4
8332195	F-02-060001	4239131317		103		MARBERRY B-4
8332235	F-06-063763	4206730399		102-4		SIMPSON "D" #2
8332211	F-7B-062059	4241734827		103		WALKER-BUCKLER 72 "A" #1
-U S OPERATING INC				RECEIVED:		04/15/83 JA: TX
8332285	F-03-65428	4228731300		103		BLANDINA #1 RRC ID# N/A
-UNION EXPLORATION				RECEIVED:		04/15/83 JA: TX
8332279	F-7B-65387	4205932782		102-4		WILLIAM -61- #1 (103817)
-UNION OIL COMPANY OF CALIF				RECEIVED:		04/15/83 JA: TX
8332343	F-08-66002	4237100000		108		AUBREY PRICE #1
8332290	F-01-65468	4210534329		102-2		WAYNE WEST RANCH "A" #3
-USEMCO INC				RECEIVED:		04/15/83 JA: TX
8332303	F-7B-65573	4236732313		103		BATEMAN #1
8332302	F-7B-65572	4236732246		103		HODGES #2
-VALWOOD PRODUCTION CO				RECEIVED:		04/15/83 JA: TX
8332188	F-03-056928	4205131864		102-2	103	LEWIS #1
-VANDERBILT RESOURCES CORPORATION				RECEIVED:		04/15/83 JA: TX
8332259	F-01-64884	4217731367		102-4		PETTUS-A #3
-VERNON E FAULCONER INC				RECEIVED:		04/15/83 JA: TX
8332291	F-06-65472	4236500000		108		H C CLINE 1-T RRC #029484
8332292	F-06-65473	4236500000		108		O B PATTON 1-T RRC #034031
-W J WHITT				RECEIVED:		04/15/83 JA: TX
8332324	F-7B-65909	4241734646		102-4		PARRISH #3 (18557)
-W W WEST				RECEIVED:		04/15/83 JA: TX
8332270	F-7C-65237	4239932212		102-4		WLK-GORDON BROOKSHIER #3
-WAGNER & BROWN				RECEIVED:		04/15/83 JA: TX
8332274	F-08-65310	4243131268		103		RAY "A" #9-31
-WALTER D CLINE JR				RECEIVED:		04/15/83 JA: TX
8332305	F-02-65625	4217531694		103		SOUTH TEXAS CHILDRENS HOME #2
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		04/15/83 JA: TX
8332356	F-08-66027	4210330608		108		J B TUBB "A" #18
8332349	F-08-66018	4246131959		103		MCELROY RANCH CO "G" WELL #19
8332357	F-08-66028	4210332293		108		W N WADDELL #1165
8332365	F-08-66038	4210332284		108		W N WADDELL #1167
8332355	F-08-66026	4210332559		108		W N WADDELL #1184
8332260	F-08-64934	4210333032		103		W N WADDELL #1256
8332354	F-08-66024	4210332969		103		W N WADDELL #1272
8332373	F-08-66055	4210302451		108		W N WADDELL #160
8332372	F-08-66054	4210302453		108		W N WADDELL #162
8332371	F-08-66053	4210301700		108		W N WADDELL #230
8332370	F-08-66052	4210301715		108		W N WADDELL #245
8332369	F-08-66051	4210302266		108		W N WADDELL #825
8332368	F-08-66050	4210310426		108		W N WADDELL #898
8332358	F-08-66030	4210310820		108		W N WADDELL #922
-WEATHERBEE PETROLEUM INC				RECEIVED:		04/15/83 JA: TX
8332232	F-7B-063676	4242933478		103		DAUGHERTY #4
-WHITEHEAD PRODUCTION CO INC				RECEIVED:		04/15/83 JA: TX
8332367	F-09-66049	4223700000		108		ELLIS #1 RR ID# 088778
-WILLIAM M SIEGEL				RECEIVED:		04/15/83 JA: TX
8332393	F-09-66115	4207732790		102-4		MILLER 22845
-WINN EXPLORATION/DULCE CO				RECEIVED:		04/15/83 JA: TX
8332254	F-01-64874	4250731811		102-4		PRYOR RANCH #128
8332258	F-01-64878	4250731818		102-4		PRYOR RANCH #140
8332257	F-01-64877	4250731847		102-4		PRYOR RANCH #154
8332256	F-01-64876	4250731852		102-4		PRYOR RANCH #155
8332255	F-01-64875	4250731875		102-4		PRYOR RANCH #159
8332252	F-01-64871	4250731860		102-4		PRYOR RANCH #176
8332253	F-01-64872	4250731885		102-4		PRYOR RANCH #178

FIELD NAME	PROD	PURCHASER
MONAHANS (CLEAR FORK)	1.8	EL PASO NATURAL G
WASSON 72	9.3	COLTEXO CORP
TXL (SAN ANDRES)	1.9	SHELL OIL CO
TXL (SAN ANDRES)	3.6	SHELL OIL CO
TXL (SAN ANDRES)	8.4	SHELL OIL CO
TXL (DEVONIAN)	6.9	SHELL OIL CO
COLEMAN COUNTY REGULA	30.0	EL PASO HYDROCARB
SO-TEX (FRY)	46.0	UNION TEXAS PETRO
ROCKWELL (GARDNER)	41.0	DELHI GAS PIPELIN
JOAQUIN FIELD (TRAVIS	875.0	SOUTHERN NATURAL
JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
CONGER (PENN)	27.0	VALERO TRANSMISSI
MCELROY	1.8	PHILLIPS PETROLEU
COWDEN NORTH	0.3	AMOCO PRODUCTION
EMPEROR-DEVONIAN	5.0	WEST TEXAS GATHER
FANT	16.0	SUN GAS TRANSMISS
PEARSALL (AUSTIN CHAL	14.0	HOUSTON PIPE LINE
ROCKSPRINGS WEST (CAN	20.0	VALERO INTERSTATE
FLORES (SULLIVAN UPPE	6.0	
KERMIT	0.0	CABOT CORP
CARTHAGE	0.0	DELHI GAS PIPE LI
ROCKSPRINGS WEST (CAN	12.0	VALERO INTERSTATE
N WORD (EDWARDS)	0.0	
SCHWARZ	0.0	TRANSCONTINENTAL G
GIDDINGS (AUSTIN CHAL	0.0	
TEXAS - HUGOTON	15.0	PHILLIPS PETROLEU
TEXAS-HUGOTON	10.0	PHILLIPS PETROLEU
WASSON	0.0	SHELL OIL CO
CONGER (PENN)	0.0	VALERO TRANSMISSI
TEX-FLOR/WOLFCAMP	6.5	PHILLIPS PETROLEU
TEX-FLOR (WOLFCAMP)	18.3	PHILLIPS PETROLEU
FALFURRIAS	415.0	ESPERANZA TRANSMI
JANICE (SADDLE CREEK)	31.0	H S T GATHERING C
CHENOT (WOLFCAMP)	100.0	DELHI GAS PIPELIN
MCFADDIN (4500)	0.0	UNITED GAS PIPELI
AVINGER (PETTIT)	0.0	DELHI GAS PIPELIN
ROCKWELL (CONGL UPPER	250.0	DELHI GAS PIPELIN
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
FIDDLERS GREEN (COOK)	22.0	LONE STAR GAS CO
GOMEZ NW (WOLFCAMP)	11.0	EL PASO NATURAL G
MASSIE (STRAWN)	300.0	INTRASTATE GAS CO
POOLVILLE SW (CONGL 4	175.0	LONE STAR GAS CO
POOLVILLE SW (CONGL 4	140.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.8	PHILLIPS PETROLEU
PEACH CREEK (AUSTIN C	50.0	VALERO TRANSMISSI
BETHANY (TRAVIS PEAK)	18.6	UNITED GAS PIPELI
BETHANY (TRAVIS PEAK)	17.7	UNITED GAS PIPELI
BIRTHDAY (MORAN)	43.0	LONE STAR GAS CO
SAXON	0.0	LONE STAR GAS CO
CONGER (PENN)	148.2	TEXAS UTILITIES F
MARSHALL 2620	10.7	LONE STAR GAS CO
SAND HILLS (JUDKINS)	5.4	EL PASO NATURAL G
MCELROY RANCH (WOLFCA	59.0	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.9	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.8	EL PASO NATURAL G
SAND HILLS (JUDKINS)	15.1	EL PASO NATURAL G
SAND HILLS NW (TUBB)	128.8	EL PASO NATURAL G
SAND HILLS (WICHITA A	6.2	EL PASO NATURAL G
SAND HILLS (JUDKINS)	2.9	EL PASO NATURAL G
SAND HILLS (JUDKINS)	9.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	9.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	1.8	EL PASO NATURAL G
SAND HILLS (JUDKINS)	4.7	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.4	EL PASO NATURAL G
SAND HILLS (JUDKINS)	5.9	EL PASO NATURAL G
WILDCAT	96.0	LONE STAR GAS CO
PERRIN EAST (5400' CO	18.2	NATURAL GAS PIPEL
DEER CREEK "ISRAEL 50	518.0	FAGADAU ENERGY CO
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
						C:	103 Denied by JA
79-02762	NM	Caulkins Oil Company	State C Comm.	329	12-12-80	C:	102-3 approved
81-06136	OK	May Petroleum Inc.	Ross #1	774	11-22-82	C:	102-3 & 103 approved
83-04109	OK	Samson Resources	Love #2	774	11-22-82	C:	102-3 & 103 approved
83-04120	OK	Samson Resources	Louise #1	802	01-06-83	C:	108 & 108-ER approved
83-11597	OK	Kaiser Francis Oil Co.	Schroeder Estate #1-23	826	02-09-83	C:	102-2; 102-4 & 103 approved
83-17679	TX	Mitchell Energy	B.H. Siebert No. 1	826	02-09-83	C:	Well Name
83-17691	TX	SIDCO	Bragg #3	828	02-18-83	C:	107-DW approved; not 107-TF
83-18194	OH	Whitman Oil & Gas Corp.	Mary & Comer Haught #1	829	02-18-83	C:	107-TF approved; not 107-DW
83-18351	PA	Mitch-Well Energy Inc.	Ronald F & Patricia D Burdick #1	830	02-18-83	C:	107-TF approved, not denied
83-185788	OH	B-J Inc.	A. Johnson #1	832	02-18-83	C:	107-TF approved; not 107-CS
83-18939	PA	Cabot Oil & Gas	Clifford Reid #1	834	02-24-83	C:	102-4 & 103 approved
83-19321	TX	Marshall Exp. Inc.	Rettig #1	837	03-01-83	C:	Applicant Name
83-20217	LA	TXO Production Corp.	Alexander C #1	837	03-01-83	C:	108 approved; not 103
83-20224	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #327	837	03-01-83	C:	108 approved; not 103
83-20279	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #331	837	03-01-83	C:	108 approved; not 103
83-20284	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #30	837	03-01-83	C:	108 approved; not 103
83-20285	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #48	837	03-01-83	C:	103 & 107-TF approved
83-20304	LA	Reliance Trusts	Manville #3	837	03-01-83	C:	103 approved; not 108
83-20321	LA	Haddox Petroleum	Manville 808 #1	838	03-01-83	C:	Well Name
83-20433	US(NM)	El Paso Natl. Gas Co.	SJ-32-5 Unit #3	839	03-04-83	C:	107-PE approved; not 107-TF
83-20627	TX	Enserch Exp. Inc.	E. G. Coleman #1	839	03-04-83	C:	Well Name
83-20642	TX	Retana Oil Corp.	Hammond "A" #5-C	839	03-04-83	C:	102-2, 103 & 107-TF approved
83-20656	TX	Superior Oil Company	Cranberry W. M. #1	840	03-04-83	C:	102-4 & 103 approved
83-20793	OK	Holden Energy Corp.	Locke #1	842	03-09-83	C:	108-ER approved; not 108
83-21365	OK	Phillips Petroleum	George "A" #1	843	03-11-83	C:	107-PE approved; not 107-TF
83-21529	WV	John S. Wold	Buzzard Ranch Co 7-1	843	03-11-83	C:	102-3 & 107-TF approved
83-21570	NM	Yates Petroleum Corp.	Bitter Lake "PX" State #1	843	03-11-83	C:	102-3 & 107-TF approved
83-21571	NM	Yates Petroleum Corp.	Roadrunner VY" St #1	844	03-11-83	C:	102-2 approved; not 103
83-21599	TX	Indian Wells Oil Co.	Richey #42A #6	844	03-11-83	C:	Well Name
83-21632	TX	Winn Exp./Dulce Co.	Pryor Ranch #65	845	03-11-83	C:	Well Name
83-21798	OK	Montgomery Exp. Co.	McQuown #4-19	845	03-11-83	C:	108-ER approved; not 108
83-21822	OK	Kaiser-Francis Oil Co.	Albert #1-7	846	03-11-83	C:	Well Name
83-22200	LA	K-B Exploration Co.	Iberville Land Co. No. 1	846	03-11-83	C:	107-PE approved; not 107-TF
83-22112	PA	Vincent Kutch	Holmes #1	846	03-11-83	C:	107-PE approved; not 107-TF
83-22131	PA	Fox Oil & Gas Inc.	F M Sloan #1	847	03-17-83	C:	Well Name
83-22222	TX	Am. Quasar Pet. Co.	O F K #1-L	848	03-17-83	C:	Applicant Name
83-22525	KS	Irex Corporation	Nash #1-21	848	03-17-83	C:	Applicant Name
83-22532	KS	Ben Springer	Stice #2	848	03-17-83	C:	Applicant Name
83-22534	KS	Ben Springer	South Howell #3	848	03-17-83	C:	Applicant Name
83-22547	KS	Ben Springer	Stigenwalt #1	848	03-17-83	C:	Applicant Name
83-22548	KS	Ben Springer	Stigenwalt #2	848	03-17-83	C:	Applicant Name
83-22549	KS	Ben Springer	Stice #1	848	03-17-83	C:	Applicant Name
83-22454	KS	Ben Springer	North Plumley #3	848	03-17-83	C:	Applicant Name
83-22455	KS	Ben Springer	North Plumley #2	848	03-17-83	C:	Applicant Name
83-22486	KS	Ben Springer	Stigenwalt #3	848	03-17-83	C:	Applicant Name
83-22507	KS	Integrated Energy	Helen Haines #1	848	03-17-83	C:	Applicant Name
83-22807	US(NM)	Conoco Inc.	Elliott B-15 #1	849	03-22-83	C:	108 approved; not 108-PB
83-24284	US(WY)	Midlands Gas Corp.	Federal #1 0351	854	03-24-82	C:	108-ER approved; not 108
83-25278	NM	Yates Petroleum Corp.	Rock House "VF" St #1	859	04-05-83	C:	102-2 & 107-TF approved
83-25279	NM	T.H. McElvain Oil & Gas Properties	Rattlesnake St. #1	859	04-05-83	C:	102-2 & 107-TF approved
83-25280	NM	Fred Pool Operating Co.	J.C. Nail #1	859	04-05-83	C:	102-2 & 107-TF approved
83-24577	OH	BPC Drilling Program 82-A	Hohman #1	856	03-28-83	C:	107-DW approved; not 107-TF
83-24591	OH	Discovery Oil LTD	Elwood Stout #2	856	03-28-83	C:	107-TF denied by JA
83-24611	OH	Dusty Drilling Co., Inc.	J. Sidwell #3	856	03-28-83	C:	107-TF approved; not 107-DP
83-24780	WY	Sohio Petroleum Co.	South Sand Draw #4	857	03-28-83	C:	107-PE approved; not 107-TF
83-25607	TX	Sun Expl. & Prod. Co.	Seeligson Unit #1-92	861	04-05-83	C:	108-ER approved; not 108
83-26051	TX	Harris Exploration Co.	C.W. Webb #2	862	04-05-83	C:	103 approved; not 102-4
83-26106	TX	WHD Inc.	Tom #1 (27253)	862	04-05-83	C:	103 approved; not 102-2
83-26640	KS	Southland Royalty Co.	Adams #6-11	864	04-06-83	C:	Well Name
83-26643	NM	Amerada Hess	Ida Wimberly #14 (Dual)	864	04-06-83	C:	108 denied by JA
83-26864	WY	Belco Petroleum Corp.	BPMV 15-28	864	04-06-83	C:	Well Name
83-26961	OH	B-J Inc.	G. E. Willey #4	865	04-12-83	C:	103 approved, not denied
83-26960	OH	B-J Inc.	G. E. Willey #3	865	04-12-83	C:	103 approved, not denied
83-26959	OH	B-J Inc.	G. E. Willey #2	865	04-12-83	C:	103 approved, not denied
83-26958	OH	B-J Inc.	G. E. Willey #1	865	04-12-83	C:	103 approved, not denied
83-27086	OK	TXO Production Corp.	Ted Johnson #1	865	04-12-83	C:	102-2 approved; not 102-4
83-27183	US(CO)	Amer. Resources Mgt. Co.	SC #11-1	865	04-12-83	C:	108-ER approved, not 108
83-27192	US(CO)	ARCO Oil & Gas	Southern Ute 22-3 32-8	865	04-12-83	C:	103 & 107-TF approved
83-27214	MS	Pruet Production Co.	Vyron Womack 1-3 #1	865	04-12-83	C:	103 approved; not 102-4
83-27507	NY	Amer. Penn Energy Inc.	D.V. Valentine #1 (1445)	866	04-12-83	C:	107-TF denied by JA
83-28010	OK	Rex R. Moore Jr.	Conell #1	868	04-18-83	C:	102-4 & 103 approved
83-28283	US(NM)	El Paso Nat. Gas Co.	San Juan 27-4 Unit #85	870	04-18-83	C:	Well Name
83-28640	TX	Exxon Corporation	JB Tubb B #30-L	871		C:	Well Name

DEPARTMENT OF ENERGY

[Volume 889]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 6, 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 pubication 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 889
ISSUED MAY 6, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-AMERICAN RESOURCES MANAGEMENT CORPO				RECEIVED:	04/18/83	JA: CO			
8332543	82-1151	0510307763		108		LOWELL BRADY T C #23-3	TRAIL CANYON	10.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	04/18/83	JA: CO			
8332421	82-818	0500107804		102-2		ABBOTT FARMS INC #1	KRAUTHEAD	224.0	CRYSTAL OIL CO
8332424	82-807	0500107805		102-2		CHARLES COFFELT #1	KRAUTHEAD	821.0	CRYSTAL OIL CO
8332422	82-816	0500107751		102-2		ELEANOR ARNOLD #1	KRAUTHEAD	1460.0	CRYSTAL OIL CO
8332423	82-713	0500107977		102-2		ELEANOR ARNOLD "B" #1	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332428	82-811	0500107785		102-2		GEORGE SAUTER #1	KRAUTHEAD - MUDDY D S	657.0	CRYSTAL OIL CO
8332444	82-803	0500107793		102-2		JACOB ZEILER #1	BASELINE	50.0	CRYSTAL OIL CO
8332425	82-711	0500506415		102-2		PRITCHETTE-GREEN #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332426	82-710	0500506429		102-2		PRITCHETTE-GREEN "B" #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332427	82-712	0500506434		102-2		PRITCHETTE-GREEN UNIT "C" #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332429	82-822	0500107894		102-2		UPRR 60 PAN AM "C" #2	BASELINE	50.0	CRYSTAL OIL CO
8332430	82-821	0500107902		102-2		UPRR 60 PAN AM "C" #3	BASELINE	50.0	CRYSTAL OIL CO
8332431	82-824	0500107903		102-2		UPRR 60 PAN AM "C" #4	BASELINE	50.0	CRYSTAL OIL CO
8332432	82-809	0500107904		102-2		UPRR 60 PAN AM "C" #5	BASELINE	50.0	CRYSTAL OIL CO
8332433	82-820	0500107809		102-2		UPRR 60 PAN AM "D" #1	BASELINE	50.0	CRYSTAL OIL CO
8332434	82-823	0500107891		102-2		UPRR 60 PAN AM "D" #2	BASELINE	50.0	CRYSTAL OIL CO
8332435	82-819	0500107892		102-2		UPRR 60 PAN AM "D" #3	BASELINE	50.0	CRYSTAL OIL CO
8332436	82-813	0500107893		102-2		UPRR 60 PAN AM "D" #4	BASELINE	50.0	CRYSTAL OIL CO
8332437	82-814	0500107964		102-2		UPRR 60 PAN AM "D" #5	BASELINE	50.0	CRYSTAL OIL CO
8332438	82-708	0500107978		102-2		UPRR 60 PAN AM "E" #1	KRAUTHEAD	50.0	CRYSTAL OIL CO
8332439	82-817	0500107968		102-2		UPRR 60 PAN AM "E" #2	KRAUTHEAD	50.0	CRYSTAL OIL CO
8332440	82-808	0500107937		102-2		UPRR 60 PAN AM "F" #1	KRAUTHEAD	50.0	CRYSTAL OIL CO
8332441	82-812	0500107936		102-2		UPRR 60 PAN AM "F" #2	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332442	82-815	0500108021		102-2		UPRR 60 PAN AM "F" #3	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332443	82-802	0500107989		102-2		UPRR 60 PAN AM "H" #1	FENCE POST	70.0	CRYSTAL OIL CO
8332446	82-731	0500107976		103		W E POPE UNIT "B" #1	QUAIL	70.0	PANHANDLE EASTERN
-COLTON CO				RECEIVED:	04/18/83	JA: CO			
8332447	82-844	0500107844		103		THOMPSON-PRICE #1		72.0	
-DAVIS OIL COMPANY				RECEIVED:	04/18/83	JA: CO			
8332448	82-673	0512310375		103		HENDERSHOT STATE #1	WILDCAT	15.0	PANTERA ENERGY CO
-ENERGY MINERALS CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332419	82-875	0508707675		102-2		BILLINGS #1	RIDGE	90.0	PANTERA ENERGY CO
8332544	82-1148	0512309557		108		BRETT #3	SPINDLE	14.0	COLORADO INTERSTA
8332545	82-1147	0512309924		108		DOC #1	WAITE LAKE	12.0	DAMSON OIL CORP
8332546	82-1146	0512308639		108		DUFF 23-31	KIOWA CREEK	18.0	DAMSON OIL CORP
8332420	82-876	0508707627		102-2		SAILSBERY #1	RIDGE	13.0	PANTERA ENERGY CO
-ENERGY OIL INC				RECEIVED:	04/18/83	JA: CO			
8332449	82-681	0512310274		103		IHNEN #2	LOVELAND	230.0	PANHANDLE EASTERN
8332450	82-737	0512310652		103		IHNEN #3	LOVELAND	225.0	PANHANDLE EASTERN
8332451	82-655	0512310273		103		STROH #1	LOVELAND	225.0	PANHANDLE EASTERN
-EXCEL ENERGY CORP				RECEIVED:	04/18/83	JA: CO			
8332485	82-858	0512310503		107-TF		FT ST VRAIN #12	WATTENBERG	200.0	PANHANDLE EASTERN
8332486	82-859	0512310456		107-TF		FT ST VRAIN #13	WATTENBERG	200.0	PANHANDLE EASTERN
8332487	82-857	0512310383		107-TF		KURTZ #1	WATTENBERG	200.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332488	82-918	0512310690		107-TF		QUARTER CIRCLE #1	WATTENBERG	200.0	PANHANDLE EASTERN
-FARM-RANCH EXPLORATION CORP				RECEIVED:	04/18/83	JA: CO			
8332489	82-683	0500107799		107-TF		WESSELS TRUPP-MITCHEM #2	ZENITH	150.0	PANHANDLE EASTERN
-H L WILLEIT				RECEIVED:	04/18/83	JA: CO			
8332535	82-947	0512310680		107-TF		BEIERLE #1-A	WATTENBERG	300.0	PANHANDLE EASTERN
8332536	82-913	0512310373		107-TF		WARNER #1	WATTENBERG	660.0	PANHANDLE EASTERN
-IMPACT ENERGY INC				RECEIVED:	04/18/83	JA: CO			
8332452	82-694	0512305671		103		IMP #1 COTTONWOOD-ST 16 T-9N R-56W	COTTON VALLEY	7.0	KN ENERGY INC
-J M HUBER CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332490	82-921	0512306760		107-TF		BOLLONG #12-1	REPUBLICAN	20.0	K N ENERGY INC
8332491	82-746	0512306765		107-TF		BROIN #13-1	WILDCAT	20.0	K N ENERGY INC
8332492	82-885	0512306752		107-TF		JEWELL #9-1	REPUBLICAN	20.0	K N ENERGY INC
8332493	82-1022	0512306728		107-TF		MEIS #30-1	WILDCAT	20.0	K N ENERGY INC
8332494	82-1052	0512306729		107-TF		WENGER #13-1	WILDCAT	20.0	K N ENERGY INC
-J-W OPERATING COMPANY				RECEIVED:	04/18/83	JA: CO			
8332495	82-925	0512306784		107-TF		T BROPHY #30-14	OLD BALDY	495.0	K N ENERGY INC
8332496	82-993	0512306785		107-TF		T BROPHY #31-19	WAVERLY	288.0	K N ENERGY INC
-K C OPERATIONS				RECEIVED:	04/18/83	JA: CO			
8332497	82-868	0512309987		107-TF		REICHERT 9-2J	WATTENBERG	20.0	PANHANDLE EASTERN
-LIFESTYLE ENERGY CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332453	82-906	0500107552		103		DANFORD-CHAMPLIN #1-24	BUCKHORN	9.0	WESTERN GAS SYSTE
8332454	82-905	0500107601		103		DANFORD-CHAMPLIN #2-24	BUCKHORN	9.0	WESTERN GAS SYSTE
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	04/18/83	JA: CO			
8332455	82-978	0512310427		103		BECKY #2-6	WATTENBERG	0.0	PANHANDLE EASTERN
8332456	82-977	0501306115		103		CATTELL #1-10	WATTENBERG	60.0	PANHANDLE EASTERN
8332457	82-976	0501306098		103		CULVER #3-17	WATTENBERG	36.0	PANHANDLE EASTERN
8332458	82-975	0501306100		103		CULVER #4-9	WATTENBERG	65.0	PANHANDLE EASTERN
8332460	82-974	0501306068		103		DAWSON #10-1	WATTENBERG	0.0	PANHANDLE EASTERN
8332459	82-973	0501306087		103		DAWSON #2-10	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332461	82-972	0512310044		103		EDSTROM GAS UNIT #1	WATTENBERG	73.0	PANHANDLE EASTERN
8332463	82-970	0501306061		103		ERTL #18-2	BOULDER VALLEY	0.0	PANHANDLE EASTERN
8332462	82-969	0501306086		103		ERTL #5-18	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332464	82-968	0501306069		103		GRAHAM #22-2	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332465	82-967	0512310227		103		HANSEN #16-1	WATTENBERG	0.0	PANHANDLE EASTERN
8332466	82-965	0513060730		103		IANNACITO #1-6	WILDCAT	12.8	PANHANDLE EASTERN
8332467	82-966	0501306080		103		KANE #20-10	WILDCAT	73.0	PANHANDLE EASTERN
8332468	82-964	0501306049		103		LEYNER #15-1	BOULDER VALLEY	72.0	PANHANDLE EASTERN
8332498	82-300	0512310083		107-TF		LONGMONT FARMS GAS UNIT "B" #1	WATTENBERG	125.0	PANHANDLE EASTERN
8332469	82-963	0501306038		103		LYNCH #1	WILDCAT	90.0	PANHANDLE EASTERN
8332470	82-961	0501306088		103		MACY #2-3	WATTENBERG	75.6	PANHANDLE EASTERN
8332471	82-962	0501306051		103		MACY #3-1	WILDCAT	72.0	PANHANDLE EASTERN
8332472	82-960	0501306077		103		OSBORNE #1	BOULDER VALLEY	82.1	PANHANDLE EASTERN
8332473	82-959	0512310252		103		PLATTEVILLE #1-19	WATTENBERG	145.0	PANHANDLE EASTERN
8332474	82-958	0501306033		103		THRONDSON #2	WATTENBERG	73.0	PANHANDLE EASTERN
8332475	82-917	0501306102		103		TYLER #1-4	WEST WATTENBERG	36.5	PANHANDLE EASTERN
8332499	82-916	0501306102		107-TF		TYLER #1-4	WEST WATTENBERG	36.5	PANHANDLE EASTERN
8332476	82-957	0501306062		103		VON REYN #9-1	BOULDER VALLEY	72.0	PANHANDLE EASTERN
8332477	82-956	0500108027		103		WARREN #1-2	WATTENBERG	36.0	PANHANDLE EASTERN
-MIDLANDS GAS CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332547	82-834	0512306550		108		PAPPENHEIM 1-7X	REPUBLICAN	19.0	K N ENERGY INC
-MOUNTAIN PETROLEUM LTD				RECEIVED:	04/18/83	JA: CO			
8332553	82-1137	0512306032		108-PB		ROSE #1-19	BEECHER ISLAND	0.0	K N ENERGY INC
8332554	82-1075	0512306032		108-PB		STATE #1-16	BEECHER ISLAND	0.0	K N ENERGY INC
8332555	82-1187	0512306046		108-PB		STATE 1-29	BEECHER ISLAND	0.0	K N ENERGY INC
8332556	82-1186	0512306052		108-PB		STRANGWAYS #A-1	BEECHER ISLAND	0.0	K N ENERGY INC
-MURCHISON TRUSTS				RECEIVED:	04/18/83	JA: CO			
8332549	82-1076	0506705579		108		BLOCK & WELL #1-26	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	04/18/83	JA: CO			
8332500	82-1033	0504506413		107-TF		BATTLEMENT #1	RULISON MESAVERDE	7.5	NORTHWEST PIPELIN
8332501	82-633	0508906345		108		BRUDER #1	GREAT DIVIDE LEWIS	42.0	NORTHWEST PIPELIN
8332502	82-1051	0504506211		107-TF		CLOUGH #9	RULISON MESAVERDE	6.5	NORTHWEST PIPELIN
8332503	82-1094	0504506250		107-TF		CLOUGH 102	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332510	82-1101	0504506210		107-TF		CLOUGH 105	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332503	82-1095	0504506232		107-TF		CLOUGH 108	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332504	82-1096	0504506229		107-TF		CLOUGH 115	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332505	82-1097	0504506258		107-TF		CLOUGH 119	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332506	82-1099	0504506257		107-TF		CLOUGH 120	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332507	82-1103	0504506241		107-TF		CLOUGH 126	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332508	82-1098	0504506384		107-TF		CLOUGH 128	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332509	82-1100	0504506206		107-TF		GOLDING 138	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332511	82-1102	0504506251		107-TF		MCNARY #107	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332512	82-1104	0504506224		107-TF		RULISON 122	RULISON WASATCH	73.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332550	82-1093	0506706250		108		BONDAD 33-9 #19A	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-PETROQUEST INC				RECEIVED:	04/18/83	JA: CO			
8332513	82-980	0512310517		107-TF		STATE "C" #14-36	WATTENBERG	7.0	PANHANDLE EASTERN
8332514	82-705	0512300000		107-TF		ZIMBELMAN #22-23	WATTENBERG	36.5	
-REX MONAHAN				RECEIVED:	04/18/83	JA: CO			
8332548	82-1078	0507500000		108		MINNIE SMITH #1	WEST PEETZ	0.0	K N ENERGY INC
-SAMSON OIL COMPANY				RECEIVED:	04/18/83	JA: CO			
8332478	82-733	0500906349		103		E R VANCE #1-2	PLAYA	0.0	PANHANDLE EASTERN
-ST MICHAEL EXPLORATION CO				RECEIVED:	04/18/83	JA: CO			
8332445	82-1013	0512310511		102-2		ULLMAN FARMS #19-3	SEVEN CROSS	54.8	NORTHERN NATURAL
-STELBAR OIL CORP INC				RECEIVED:	04/18/83	JA: CO			
8332516	82-899	0512109805		107-TF		B MAGGARD #3-11	DE NOVA	50.0	NATURAL GAS PIPEL
8332515	82-901	0512109798		107-TF		GREEN #1	DENOVA	15.0	NATURAL GAS PIPEL
8332517	82-889	0512109811		107-TF		MCCAULEY #1-22	WILDCAT	20.0	NATURAL GAS PIPEL
8332518	82-895	0512109802		107-TF		PRICE #1-12	DENOVA	30.0	NATURAL GAS PIPEL
8332519	82-891	0512109733		107-TF		PRICE #1-13	DENOVA	15.0	NATURAL GAS PIPEL
8332520	82-897	0512109803		107-TF		PRICE #2-13	DENOVA	30.0	NATURAL GAS PIPEL
8332521	82-893	0512109804		107-TF		PRICE #3-18	DENOVA	50.0	NATURAL GAS PIPEL
8332522	82-903	0512109801		107-TF		TUNSTEAD-DEVILLIER #1	DENOVA	15.0	NATURAL GAS PIPEL
-TEXAS AMERICAN OIL CORP				RECEIVED:	04/18/83	JA: CO			
8332484	82-438	0500107279		103		FRANKLIN WALLACE #1	SPINDLE	4.1	PANHANDLE EASTERN
8332479	82-837	0500107648		103		JOHN EHLER #16	SPINDLE	9.9	PANHANDLE EASTERN
8332480	82-838	0500108085		103		JOHN EHLER #17	SPINDLE	34.3	PANHANDLE EASTERN
8332481	82839	0500108086		103		JOHN EHLER #18	SPINDLE	70.8	PANHANDLE EASTERN
8332482	82-836	0500108087		103		JOHN EHLER #19	SPINDLE	35.4	PANHANDLE EASTERN
8332483	82-835	0500108088		103		JOHN EHLER #20	SPINDLE	56.2	PANHANDLE EASTERN
-THE SAND HILLS SOCIETY				RECEIVED:	04/18/83	JA: CO			
8332552	82-1080	0512109343		108-ER		KANCO FARMS #1	LONGKNIFE	0.0	NATURAL GAS PIPEL
-VESSELS OIL & GAS COMPANY				RECEIVED:	04/18/83	JA: CO			
8332523	82-293	0500506444		107-TF		AINSWORTH #1	FAIRWAY	103.0	FAIRWAY GAS PROCE
8332525	82-943	0501306053		107-TF		BAILEY #1-A	WEST WATTENBERG	730.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332526	82-291	0500506490		107-TF		FMC #1	FAIRWAY	7.7	FAIRWAY GAS PROCE
8332527	82-288	0500506445		107-TF		FRIEND & MEYER #1	FAIRWAY	60.0	FAIRWAY GAS PROCE
8332528	82-292	0500506466		107-TF		FRIEND & MEYER #2	FAIRWAY	60.0	FAIRWAY GAS PROCE
8332529	82-290	0500107798		107-TF		MITCHEM MITCHELL #1-A	ZENITH	64.0	PANHANDLE EASTERN
8332530	82-289	0500107944		107-TF		MITCHEM MITCHELL #1-B	ZENITH	83.0	PANHANDLE EASTERN
8332532	82-263	0500506435		107-TF		PRITCHETTE GREEN #2	POLLEN	36.0	FAIRWAY GAS PROCE
8332533	82-932	0501306116		107-TF		ROSS "G" UNIT #1	WATTENBERG	733.0	PANHANDLE EASTERN
8332524	82-294	0500506409		107-TF		VESSELS AMOCO UPRR #11-9	FAIRWAY	20.0	AMOCO PRODUCTION
8332531	82-261	0500506417		107-TF		VESSELS PRITCHETTE GREEN #1	POLLEN	73.0	FAIRWAY GAS PROCE
8332534	82-262	0500107994		107-TF		WAILES #1	FIRECREEK	113.0	PANHANDLE EASTERN
-YUMA COUNTY OIL CO				RECEIVED:	04/18/83	JA: CO			
8332537	83-766	0512506269		107-TF		JER #1-9	OLD BALDY	58.0	CITIES SERVICE GA
8332538	82-765	0512506796		107-TF		JER 2-9	OLD BALDY	58.0	CITIES SERVICE GA
8332539	82-764	0512506797		107-TF		JER 3-9	OLD BALDY	58.0	CITIES SERVICE GA
8332540	82-769	0512506780		107-TF		YUMA COUNTY OIL CO 1-10	OLD BALDY	58.0	CITIES SERVICE GA
8332541	82-768	0512506781		107-TF		YUMA COUNTY OIL CO 2-10	OLD BALDY	58.0	CITIES SERVICE GA
8332542	82-767	0512506782		107-TF		YUMA COUNTY OIL CO 3-10	OLD BALDY	58.0	CITIES SERVICE GA
OKLAHOMA CORPORATION COMMISSION									
-AMCANA OIL CORP				RECEIVED:	04/14/83	JA: OK			
8332609	19850	3511721331		103		PRIVETT #1-35	BRYAN	36.0	COLORADO GAS COMP
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332605	19698	3503920652		102-2		ENGLES #1	SOUTH THOMAS	220.0	TRANSOK PIPELINE
-ANR PRODUCTION CO				RECEIVED:	04/14/83	JA: OK			
8332612	19867	3501521159		102-2		OKLAHOMA STATE #1-13	N E EAKLEY	474.5	
-BERRY TOM D				RECEIVED:	04/14/83	JA: OK			
8332593	20972	3511921874		103		BRATCHER #6		9.0	ARCO OIL & GAS CO
-BONRAY ENERGY CORP				RECEIVED:	04/14/83	JA: OK			
8332581	19936	3508322077		103		BRISCOE 14-1	S MULHALL	91.3	EASON OIL CO
8332580	19935	3508322059		103		GALLAWAY 14-1	S MULHALL	90.0	EASON OIL CO
-BUNKER EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332602	18354	3505121212		102-3		HOLLY SUE #1-25	SOUTH CHEIWOOD SPRING	0.0	ARKANSAS LOUISIAN
-CLARK RESOURCES INC				RECEIVED:	04/14/83	JA: OK			
8332578	18210	3507323574		103		MCVICKER 13-1	SOONER TREND	148.0	CONOCO INC
8332588	20950	3509322551		103		MONSEES 6-1	SOONER TREND	40.0	CITIES SERVICE GA
8332599	20951	3507330276		108		RACHEL 27-1	SOONER TREND	14.4	EXXON CO USA
-D & G EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332572	20012	3514321967		102-2		ARMSTRONG #1		0.0	DIAMOND "S" GAS S
8332573	20013	3514322009		102-2		FORBES #1		0.0	DIAMOND "S" GAS S
8332567	20007	3514321655		102-2		JOHNSON #1		0.0	DIAMOND "S" GAS S
8332566	20006	3514321721		102-2		JOHNSON #2		0.0	DIAMOND "S" GAS S
8332565	20005	3514321763		102-2		JOHNSON #3		0.0	DIAMOND "S" GAS S
8332569	20009	3514322126		102-2		JOHNSON #4		0.0	DIAMOND "S" GAS S
8332568	20008	3514322139		102-2		JOHNSON #5		0.0	DIAMOND "S" GAS S
8332571	20011	3514322031		102-2		JOHNSON #6		0.0	DIAMOND "S" GAS S
8332570	20010	3514322061		102-2		MCGEE #1		0.0	DIAMOND "S" GAS S
-D & G GAS & OIL CO				RECEIVED:	04/14/83	JA: OK			
8332592	20971	3504723162		103		JOHNSON #4	ELKHORN	150.0	EASON OIL CO
-DAVIS OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332598	19897	3512920698		102-2	103	BOAL #1-14	CROSS RANCH	0.0	TRANSOK PIPELINE
-DAWN ENERGY CO				RECEIVED:	04/14/83	JA: OK			
8332610	19852	3515321296		103		LAND COMMISSIONERS #1-13	SOUTHWEST SHARON	219.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/14/83	JA: OK			
8332559	21074	3509322524		103		LESLIE SWART #1	WAUKOMIS	110.0	PETRO-LEWIS CORP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/14/83	JA: OK			
8332562	22295	3500906805		108-PB		STATE OF OKLAHOMA A #1	ERICK SOUTH - BROWN D	31.0	EL PASO NATURAL G
-ENERGY SERVICES INC				RECEIVED:	04/14/83	JA: OK			
8332604	18907	3515321204		102-4		BROWN #32-1	HARMON NORTHWEST	224.0	PRODUCER'S GAS CO
8332603	18906	3515321347		102-4		FORD #29-1A	NORTHWEST HARMON	73.0	PRODUCER'S GAS CO
-ENTEX PETROLEUM INC				RECEIVED:	04/14/83	JA: OK			
8332582	19917	3508320683		103		REID #1	N W RUSSELL	0.0	EASON OIL CO
-H G & G INC				RECEIVED:	04/14/83	JA: OK			
8332607	19848	3505320717		103		KRITTENBRINK #1-20	RICH VALLEY	0.0	FARMLAND INDUSTRI
-HARPER OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332583	19975	3503920515		102-2		STUCKER #1	W ARAPAHO	360.0	
-HESTON OIL CO				RECEIVED:	04/14/83	JA: OK			
8332601	07436	3504700000		108		LANDWEHR 35-1	W ENID	12.0	OKLAHOMA GAS & EL
-HOLD OIL CORP				RECEIVED:	04/14/83	JA: OK			
8332587	19938	3506120498		102-2		KRUGER #1-17	BROOKEN	400.0	ARKANSAS LOUISIAN
-INEXCO OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332586	19869	3512920734		102-4		SHALLER TRUST #1	TURNER NORTH	110.0	DELHI GAS PIPELIN
-JMAC ENGINEERING INC				RECEIVED:	04/14/83	JA: OK			
8332575	21036	3508121690		103		BULLARD #1		0.1	SWAB CORP
-L E JONES PRODUCTION COMPANY				RECEIVED:	04/14/83	JA: OK			
8332559	20968	3501922521		103		SABINE #1	SHO-VEL-TUM	63.0	MOBIL OIL CORP
-LEEDE OIL & GAS INC				RECEIVED:	04/14/83	JA: OK			
8332561	21106	3501121673		103		WREDE #1	SQUAW CREEK	400.0	TRANSOK PIPE LINE
-MAHAN-ROWSEY INC.				RECEIVED:	04/14/83	JA: OK			
8332576	21037	3502720549		103		B-F #1	SOUTH MOORE	550.0	SUN GAS CO
-NOBLE OPERATING INC				RECEIVED:	04/14/83	JA: OK			
8332590	20969	3509322437		103		ELEANOR #2	S BADO	0.0	PHILLIPS PETROLEU
8332591	20970	3501121649		103		NEUFELD #1	ALTONA	0.0	
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	04/14/83	JA: OK			
8332558	21073	3501722351		103		MILLER #2 (017-60407-1)	YUKON	100.0	PHILLIPS PETROLEU
-PIONEER PRODUCTION CORPORATION				RECEIVED:	04/14/83	JA: OK			
8332606	19800	3514900000		102-3		HICKLIN #1-9	ELK CITY	0.0	EL PASO NATURAL G
-READING & BATES PETROLEUM CO				RECEIVED:	04/14/83	JA: OK			
8332564	19994	3503900000		102-2		MULLINS #1-34	PITTS CREEK	370.0	
-RICKS EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332557	23951	3501521398		107-DP		VERMA #1	SOUTH FT COBB	3576.0	EL PASO NATURAL G
-SABINE PRODUCTION COMPANY				RECEIVED:	04/14/83	JA: OK			
8332600	20980	3509321613		108		STATE 1-36		0.0	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	04/14/83	JA: OK			
8332584	19982	3506120539		102-4	103	PERRY UNIT #1	NORTHWEST KEOTA	793.8	ARKANSAS LOUISIAN
-SELLERS RESOURCES CORP				RECEIVED:	04/14/83	JA: OK			
8332608	19849	3503700000		103		JIM SHIDELER #1	CUSHING	30.0	ARCO OIL & GAS CO
-SENECA OIL CO				RECEIVED:	04/14/83	JA: OK			
8332585	19862	3504321368		102-4	103	MARTIN #1-23		146.0	TRANSOK PIPE LINE
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	04/14/83	JA: OK			
8332579	19785	3508321951		103		DR BAILEY #1	EAST GUTHRIE	18.0	CHAMPLIN PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/14/83	JA: OK			
8332563	19986	3501521234		102-2		GEORGE W LASLEY #1	EAKLEY EAST	185.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	04/14/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332577	21048	3515121343		103		BUCKLES 1-31		0.0	PANHANDLE EASTERN
8332611	19857	3514920290		102-2	103	CELSOR 1-10	SENTINEL WEST	625.0	
8332560	21075	3504723108		103		THOMAS 3-7	KREMLIN EAST	1.0	ARKANSAS LOUISIAN
-HARD PETROLEUM CORP				RECEIVED:		04/14/83 JA: OK			
8332574	20119	3502720500		103		MATTHESON #2	SE MOORE	0.0	SUN GAS CO
-WOODS PETROLEUM CORPORATION				RECEIVED:		04/14/83 JA: OK			
8332597	19896	3504321303		102-4	103	CALKINS-FRAZEE "A" #1	PUTNAM	234.0	MICHIGAN WISCONSI
8332595	19894	3512920745		102-2		CORDUM #12-1	N REDMOON	633.0	
8332596	19895	3512920692		102-2		HUGHES #17-1	N REDMOON	949.0	
8332594	19893	3505921139		102-2		SELMAN #24-1	N SALT SPRINGS	276.0	
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:		04/15/83 JA: WV			
8332618		4708703548		103		A SMITH #1	WALTON DISTRICT	18.0	COLUMBIA GAS TRAN
8332616		4708703583		103		J R DANIELL #1	SPENCER DISTRICT	18.0	
8332617		4708703575		103		PARKER #1	WALTON DISTRICT	18.0	ROARING FORK GAS
8332619		4708703578		103		R ASBURY #1	SPENCER DISTRICT	18.0	COLUMBIA GAS TRAN
8332615		4703903803		103		R F JARRETT #1	UNION DISTRICT	18.0	
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:		04/15/83 JA: WV			
8332641		4700100760		106		A - 545	PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:		04/15/83 JA: WV			
8332644		4700121658		103		MCCULLOUGH #1	VALLEY	19.5	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:		04/15/83 JA: WV			
8332633		4708505160		107-DV		CAMPBELL #1	UNION DISTRICT	10.0	COLUMBIA GAS TRAN
8332613		4708505621		103		IAMS #1	PULLMAN CORP DISTRICT	9.0	
8332636		4708505621		107-DV		IAMS #1	PULLMAN CORP DISTRICT	9.0	
8332627		4708505098		107-DV		LAYFIELD #2	GRANT DISTRICT	5.0	
8332638		4708505599		107-DV		LOGAN #1	UNION DISTRICT	15.0	
8332639		4708505208		107-DV		MARTIN-MAXON #1	UNION DISTRICT	15.0	
8332645		4708505218		107-DV		MARTIN-MAXON #2	UNION DISTRICT	15.0	
8332646		4708505600		107-DV		MCKINLEY #1	UNION DISTRICT	12.0	
8332647		4708505605		107-DV		MCKINLEY #2	UNION DISTRICT	18.0	
8332624		4701703083		107-DV		OKEY LEGGETT #1	SOUTHWEST DISTRICT	15.0	
8332631		4708505083		107-DV		PIFER #1	GRANT DISTRICT	8.0	
8332632		4703302685		107-DV		PLAUGHER #1	TENMILE DISTRICT	10.0	
8332623		4703302685		103		PLAUGHER #1	TENMILE DISTRICT	10.0	
8332622		4704103159		103		POST #1	COLLINS SETTLEMENT DI	10.0	
8332628		4708505444		107-DV		PRUNTY HEIRS #1	UNION DISTRICT	12.0	
8332637		4708505446		107-DV		PRUNTY HEIRS #3	UNION DISTRICT	15.0	
8332629		4708505442		107-DV		PRUNTY HEIRS #4	UNION DISTRICT	14.0	
8332634		4708505499		107-DV		ROYAL COX #2	UNION DISTRICT	20.0	COLUMBIA GAS TRAN
8332635		4708505524		107-DV		ROYAL COX #3	UNION DISTRICT	7.0	COLUMBIA GAS TRAN
8332630		4708505217		107-DV		RUSSELL WILSON #1	UNION DISTRICT	10.0	COLUMBIA GAS TRAN
8332625		4701702557		107-DV		T V SMITH #1	BENSON RUN	20.0	COLUMBIA GAS TRAN
8332626		4701702573		107-DV		T V SMITH #3	BENSON RUN	20.0	COLUMBIA GAS TRAN
-CHESTERFIELD CORP				RECEIVED:		04/15/83 JA: WV			
8332620		4709702430		103		LIPSCOMB #2 47-097-2430	MEADE	0.0	COLUMBIA GAS TRAN
-HARDEE PETROLEUM CO				RECEIVED:		04/15/83 JA: WV			
8332640		4701501996		103		ELK RIVER LUMBER COMPANY #5	PLEASANTS DISTRICT	73.0	CABOT CORP
8332643		4701501997		103		ELK RIVER LUMBER COMPANY #6	PLEASANT DISTRICT	36.5	CABOT CORP
-J C BAKER & SONS INC				RECEIVED:		04/15/83 JA: WV			
8332614		4700701658		108		LAKE & HOPKINS	SALT LICK DIST	18.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:		04/15/83 JA: WV			
8332642		4706700588		103		JOHN RADER SW-411	HAMILTON	19.0	CONSOLIDATED GAS
8332621		4701900483		103		LESLIE MCINTYRE SW-406	VALLEY	16.0	ROARING FORK GAS

[FR Doc. 83-12762 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Thursday
May 12, 1983

Part VII

Department of Commerce

International Trade Administration

Trade Fair Certification Program; Support of Privately-Organized Domestic and International Trade Events

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Fair Certification Program; Support of Privately-Organized Domestic and International Trade Events

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Trade Fair Certification Program.

SUMMARY: This notice sets forth objectives, circumstances and application review criteria associated with the Department's program to recognize and support privately organized trade fairs. This notice also describes procedures for organizers wishing to apply for consideration for certification or desiring further information or assistance.

DATE: These administrative procedures are effective May 1, 1983.

ADDRESSES: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. David Earle, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, (202/377-2525).

SUPPLEMENTARY INFORMATION: As part of its mission to foster, promote and develop U.S. commerce, the Department has for many years developed and managed trade exhibitions abroad, sponsored "U.S. Pavilions" in foreign-managed trade events, and assisted U.S. firms participating in domestic trade shows to meet with potential foreign buyers, agents and distributors. While this activity will continue as an important Department function, it is our policy to encourage the private sector to undertake the development and execution of trade fairs—both in the U.S. and abroad—to an extent consistent with ensuring quality opportunities for U.S. firms to obtain export market exposure for their products and services.

In keeping with this policy, the Department has recently implemented the Trade Fair Certification Program. Under the program, private sector trade show organizers are encouraged to apply for certification for overseas or domestic trade events (including the "U.S. Pavilion" or other designated United States section at exhibitions featuring the products or services of more than one nation). Certification of an event is one-time, e.g. an organizer seeking certification for a recurring event must submit a new application for certification for each occurrence of the event.

As part of its regular planning process, the Department's International Trade Administration develops a schedule of trade promotion events that it feels represents an annually balanced, worldwide trade promotion program. If certification is granted for a USDOC scheduled event, the Department transfers responsibility for that event to the organizer and agrees to provide various support services, in lieu of direct participation by the Department of Commerce. Events need not have been part of the Department's schedule of planned promotion events to be proposed for and receive certification. The Department will not certify an event if it appears that withdrawal of U.S. Government participation would be contrary to the public interest.

Because of limited resources available to support certified events, the Department must limit certification to those events, which in it judgment, most clearly and best meet the Department's program objectives and general selection criteria. For this reason, a decision not to certify a particular event should not be viewed as a finding that the event will not be successful and beneficial in promoting U.S. exports.

The Trade Fair Certification Program involves no transfer of funds to the private sector. Travel and per diem costs incurred by Departmental personnel in direct support of a certified event will, as a general rule, be borne by the organizer, as will the major costs for promotional and marketing assistance.

Certificate and Logo. Each successful applicant is provided a certificate designating the particular event as being certified by the U.S. Department of Commerce. The applicant is also provided copies of an official Trade Fair Certification Program logo for use in advertising and promotional materials. Certification is intended to indicate that the Department has found the event to be a leading international trade event worthy of the participation of U.S. exporting firms and patronage by foreign customers. Certification is not intended—nor may it be characterized—as a U.S. Government guarantee of the success of the event or the proper performance of the undertakings of the organizer as to participants or other persons or organizations. Nor does certification imply an official endorsement of one trade fair organizer over others.

Department of Commerce Support of Certified Events. The support provided for certified events will differ depending on the specific needs identified by the organizer and the Department. Services may include special overseas marketing efforts by staff of the Foreign Commercial Service (FCS), such as contacting key foreign government and private sales prospects, presence of FCS officers at overseas events; publicity in appropriate Departmental periodicals; and promotion of U.S. firms' participation in the event by Export Development (ED) industry specialists in Washington, and/or trade specialists in U.S. Commercial Service (USCS) District Offices.

General Criteria for Awarding Certification. Subject to Departmental budget and resource constraints, certification will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

a. *The event must be a leading internationally-oriented trade show or exhibition in the industry it represents.* In applying this criterion, the Department may consider such factors as:

(i) The degree to which the event is recognized as a showplace for the latest technology or techniques in an industry or a commercially recognized category of goods or services;

(ii) Whether the event provides a unique opportunity for export promotion within a particular market;

(iii) Whether the event can attract substantial numbers of U.S. industry participants and overseas visitors; and

(iv) Whether such participants are likely to exhibit products or services adequately representing U.S. industry in the particular field involved—the theme should be sufficiently broad to represent the U.S. industry.

b. *The event must have outstanding potential for export promotion.* In applying this criterion, the Department will consider:

(i) Whether the industry or target market of the event promises to attract substantial numbers of foreign buyers of U.S. products or services; and

(ii) Whether the "marketability" of the products or services to be exhibited—the sale potential in the market area and suitability of the products or services to promotion by the exhibition technique—adequately justify U.S. Government support.

c. *The event must be one whose promotion and support would be consistent with the Department's overall export promotion program and its priorities for allocation of trade*

promotion resources. In applying this criterion, the Department will consider such factors as the theme, timing and location of the event, and whether under the relevant circumstances, USDOC support would contribute to a balanced annual trade promotion program.

d. *The applicant for certification must demonstrate:*

(i) Financial capability and personnel resources sufficient to guarantee planning and implementation of a successful event, including, but not limited to having an established U.S. office for recruitment of participants;

(ii) Experience or other qualifications in trade fair management; and

(iii) A business commitment to develop and execute the trade event. In particular, the applicant must provide documentation showing a firm agreement committing both the applicant and the lessor of exhibit space at the event to lease and provide the space necessary to accommmodate a "U.S. Pavilion" to consist of a minimum of twenty (20) individual U.S. exhibits. Leasing arrangements for such space cannot be made contingent on certification of the event by the Department;

(iv) The ability and commitment to provide a comprehensive show management and marketing effort, including efforts to attract participation by small and medium-sized, or new-to-market companies; and

(v) The ability and commitment to satisfy U.S. exhibitors' needs by delivering exhibition services comparable to those provided at Department of Commerce organized trade exhibitions.

Specific Department of Commerce Actions and Responsibilities. For certified events, the Department of Commerce will:

a. Authorized the use of a Department of Commerce "Trade Fair Certification" logo and other USDOC approved references which indicate that the United States Government recognizes the show.

b. Designate an Export Development industry project officer to work with the organizer regarding marketing promotion. This project officer will assist the organizer and in the case of overseas events, work with the Export Development Office (EDO), to implement the organizer's market promotion program.

c. Advise all USCS District Offices, U.S. Embassies, Consulates and other interested organizations, including trade associations, Chambers of Commerce, etc., that the Department of Commerce has recognized the exhibition under the Certification Program.

d. Provide a letter accepting the show under the Certification Program and a suggested news release for the organizer to use in public relations campaigns/activities.

e. *For domestic exhibitions,* at the request of the organizer, (the ED industry officer) will assist in marketing the event through the following actions:

(i) Provide the organizer with mailing labels and an indication of quantity and foreign language requirements for organizer's dispatch of promotional brochures to interested posts; and

(ii) Obtain from the show producer "copy" for an advertisement that is sufficient for a one page (or less) free advertisement in Commercial News USA, and arrange for its placement in the publication.

f. *For overseas exhibitions,* at the request of the organizer, (the Department will) assist in marketing the event through the following actions:

(i) The EDO will furnish the organizer with a list of key local government entities, associations, distributors, agents, etc., prepared by the post;

(ii) Resources permitting, USFCS officers will assist marketing promotion meetings with local representatives of U.S. companies participating in the event, and make personal calls on key potential business contacts on behalf of U.S. companies participating in the event; and

(iii) The International Economic Policy (IEP) country desk officer will provide, on request, and to the extent available, pertinent market or other information requested by the organizer.

g. Encourage potential exhibitors, either in the normal course of their counseling of U.S. firms or through contacts with business or trade associations, to take advantage of the event, and respond to inquiries regarding opportunities afforded by the event.

h. Upon the request of the organizer, provide a Commerce representative or representatives for duty at the show. (A USDOC officer is required at all domestic events.) The period of time and nature of support required are to be specifically identified in the organizer's application. Commerce may at its discretion and expense provide an additional officer for domestic events and an officer for overseas events.

Specific Responsibilities of the Organizer. Subject to any specific agreement between the Department and the organizer, the responsibilities of the organizer of a certified event are as follows:

a. Designate an individual on the organizer's staff to work on all aspects of the show with Department of Commerce personnel assigned to coordinate activities for the exhibition.

b. Provide the following exhibitions services:

(i) Display space comparable with industry standards for trade events;

(ii) Overall exhibition design and fabrication, and individual display stand design and construction;

(iii) Forwarding and exhibit set-up services including, but not limited to: unloading participants' equipment at the exhibition site; delivery to the participants' booth, unpacking, placement in display area, storing packing crates, repacking and loading for onward shipment, customs clearance (overseas events only); and any other services required to assure the prompt and orderly receipt and dispatch of materials in and out of an exhibition site;

(iv) Installation of a display system, chairs, tables, standard company identification and standard agent identification signs;

(v) Normal utilities and hook-up services; and

(vi) Assistance in hiring interpreters, clerical personnel or booth attendants required by participants. All fees to be charged to participants for standard and supplementary services must be stated in the organizer's application.

c. Provide, for any overseas event, an identified "U.S. Pavilion" large enough to contain exhibits of at least 20 U.S. firms or 75% of the target number of participants stated in the application, whichever is larger.

d. Undertake, as appropriate, a comprehensive promotional campaign to include, at a minimum, but not be limited to: special trade showings, conferences and meetings to attract importers, distributors, agents, buyers and end-users to the exhibition. For domestic events, as appropriate, the organizer must produce multilingual promotion brochures or other literature and an Export Interest Directory (a published listing of exhibitors who have expressed an interest in meeting with foreign buyers which includes, but is not limited to the following information: firm name, product line and nature of business interest—joint venture, licensing, distributorship, direct sales) for distribution to overseas posts and end users.

e. For all events, provide at no cost to the U.S. Government, an International Business Center (IBC) (in foreign exhibitions, this center must be in the "U.S. Pavilion"). The IBC will be in a prominent and easily accessible location, where contracts between U.S. exhibitors and foreign customers can be

facilitated by a U.S. Government representative. At a minimum, this center must facilitate the receipt of messages and be conductive to "one-on-one" business meetings between participants and contacts. The organizer must also make available or assist in securing services (including translation services), foreign customer registration, and assist in arranging appointments between U.S. exhibitors and foreign customers.

f. Include small- and medium-sized U.S. firms in recruitment mailings and solicitations.

g. Subject to Departmental guidelines, pay per diem and travel-related expenses for U.S. Department of Commerce employees whom the organizer has agreed will be present.

h. Provide statistical or other information of a non-proprietary nature requested by the Department within 60 days of the event for use in evaluating the success of the event and the effectiveness of support provided by the Department. Such information may include, but not be limited to: number of visitors, off-the-floor sales, number of attendees at seminars, etc. Along with this information, the organizer will furnish three (3) copies of the Export Interest Directory to the Department (for domestic events only).

When, Where, and How to Apply for Trade Fair Certification. Applications for certification should be received by the Department at least one (1) year before the scheduled date of the event. To ensure the availability of Department resources and to fully anticipate workload associated with support provided to organizers, the Department may reject any application received later than that date. An application is not considered to have been received for purposes of this rule until it is complete in all material respects.

Brenda L. Ebeling

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83-12780 Filed 5-11-83; 8:45 am]

BILLING CODE 3510-25-M

Reader Aids

Federal Register

Vol. 48, No. 93

Thursday, May 12, 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, MAY

19693-19866.....2
19867-20032.....3
20033-20216.....4
20217-20402.....5
20403-20680.....6
20681-20890.....9
20891-21108.....10
21109-21296.....11
21297-21522.....12

CFR PARTS AFFECTED DURING MAY

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.

1 CFR

Proposed Rules:
Ch. III.....20417

3 CFR

Executive Orders:
11735 (Amended by EO 12418).....20891
12123 (Amended by EO 12418).....20891
12155 (Amended by EO 12417).....20035
12316 (Amended by EO 12418).....20891
12417.....20035
12418.....20891
12419.....20893

Proclamations:
5057.....20033
5058.....21297
5059.....21299

5 CFR

1320.....21109
2470.....19693
2471.....19693
2472.....19694

7 CFR

2.....20403, 21301
55.....20681
56.....20681
59.....20681
70.....20681
210.....20895, 20896
215.....20895, 20896
220.....20895, 20896
225.....20896
226.....20896
235.....20896
245.....20896
272.....20403
273.....20403
319.....20403
360.....20037
729.....20403
907.....20217, 21301
910.....20403
979.....20898
1049.....19698
1131.....19699
1464.....21109
1701.....20404
1942.....20217

Proposed Rules:
Ch. XVIII.....20425
21.....19884
27.....20715
28.....19721
29.....20720
52.....19884
989.....21147, 21339
1001.....20920
1040.....20418
1065.....20424
1099.....20425
1125.....20058
1133.....20058
1136.....20925
1139.....20929
1446.....21152

8 CFR

100.....20684
103.....20221
204.....20221
205.....20221
208.....20684
212.....20221, 20684
214.....19867, 20221, 20684
234.....20684
238.....20898
245.....20684

9 CFR

92.....19867-19872
318.....20221

Proposed Rules:
319.....19722

10 CFR

Proposed Rules:
Ch. II.....20866
20.....20721, 20723
40.....19722
50.....20426
150.....20723
790.....20000
1017.....20091

12 CFR

563.....21302
571.....21302

Proposed Rules:
205.....20723
226.....20724
304.....20092
309.....20092
337.....20240
556.....20930
561.....19723
563.....19723, 20930
614.....20426
615.....20426
619.....20426

13 CFR

Proposed Rules:
101.....19872
116.....20933
120.....21110
121.....20560

14 CFR

39 ..... 19700, 20685, 21305, 21307
71 ..... 20222, 20686–20688
91 21308
97 20222
249 21310

Proposed Rules:

21 ..... 19727, 19733
39 20727
71 ..... 19736–19740, 20241, 20728, 20729
75 20241
121 21339
135 21339
159 19838

15 CFR

4a 20040
369 20043
370 20043
371 20899
375 20043
379 20899
385 20899
388 20043
390 ..... 20043, 20225
399 20899
903 20688

Proposed Rules:

50 20432
939 20730
981 21154

16 CFR

5 20044
13 ..... 20046, 20047
305 20047
1610 21310
1615 21310
1616 21310

Proposed Rules:

13 ..... 20093, 20730, 21156
444 20096
1201 20762

17 CFR

1 20900
200 ..... 19873, 21112
229 19873
230 19873
239 19873
240 19873
249 19873

Proposed Rules:

1 20097
240 20097
270 19887

18 CFR

Proposed Rules:

4 20934
11 20934
35 21161
271 20432
410 19893

19 CFR

201 20225
210 ..... 20225, 21112, 21115
211 20225

Proposed Rules:

12 20242
111 21343

21 CFR

510 20901
540 20901
558 20902
660 20405

Proposed Rules:

131 20433
158 20935
610 20433
640 19897
660 20433

22 CFR

11 19701

23 CFR

Ch. I 20022, 21317

24 CFR

8 ..... 20638, 20902
108 20903
200 19877
203 19877
233 19877
234 19877
237 19877
426 19878
880 20227
881 20227
883 20227
884 20227
886 20227

26 CFR

1 ..... 20047, 20244, 20938
5f 21115
401 19878

Proposed Rules:

1 21166
20 21167
301 21167

29 CFR

1 20408
5 20408

Proposed Rules:

XXVI 20247
1613 19705
1952 20434
2616 19710

30 CFR

250 20227
700 20392
701 20392
716 21446
779 21446
783 21446
785 ..... 20392, 21446
816 20392
817 20392
823 21446
827 20392
904 19710
936 20049

Proposed Rules:

905 20939
914 20763
925 20764

32 CFR

294 20228
983 20408
984 20408

33 CFR

100 19712
117 ..... 19713, 20229, 21325
165 ..... 20230, 21325
401 20690

Proposed Rules:

117 19741
161 20248
207 20249
320 21466
322 21466
323 21466
325 21466
327 21466
328 21466
330 21466

34 CFR

510 20692

36 CFR

Ch. I 21121
901 20903

Proposed Rules:

61 19742
211 20765

38 CFR

17 ..... 19714, 19878

Proposed Rules:

21 20939

39 CFR

10 21131
601 20408
3002 19878

Proposed Rules:

10 20949
447 21343
956 21343

40 CFR

52 ..... 19715, 19716, 19878, 20051, 20231, 20233, 21326
60 20693
61 20693
145 19717
180 ..... 20052–20055, 21131–21133
712 21294

Proposed Rules:

52 ..... 19748, 19750, 19898, 19900, 20766
124 21098
180 20950
192 20768
228 20440
264 ..... 20440, 21101
265 20440
267 20440
270 21098–21103
721 20668

41 CFR

Ch. 101 21327
3–3 20904
4–2 19718
14–1 21133
51–4 21328
101 20056

Proposed Rules:

44–17 20441
101–41 21351
114–50 20768

42 CFR

57 20214
405 21254

43 CFR

Proposed Rules:

426 ..... 19900, 20768
1600 20364
8370 20630

44 CFR

64 ..... 20234, 20236, 20910
65 20694–20701
67 ..... 20409, 20912
70 20701–20713

Proposed Rules:

67 ..... 20443, 20444, 20769, 20770, 20950, 21351

45 CFR

303 20237
650 19860

Proposed Rules:

1626 19750

46 CFR

Proposed Rules:

10 20770
30 19755
67 20249
151 19755
153 19755
157 20770

47 CFR

22 21329
73 ..... 19879, 19882, 20918, 20919, 21478
74 21478

Proposed Rules:

Ch. I 20771, 21351
2 21354
21 19759
22 ..... 19759, 20952, 21354
23 19759
61 21356
73 ..... 19917, 20252, 20953–20966
74 19759
78 19759
81 19759
87 19759
90 19759
94 19759
150 19759

49 CFR

Ch. X 20919
25 20714
172 19719
175 19719
571 20237
1033 20409
1039 20412

Proposed Rules:

100–179 (Ch. I) 20255, 20780
229 20257
571 ..... 19760, 20259
574 19761
1309 20780
1310 20780

50 CFR

18 20614

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	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

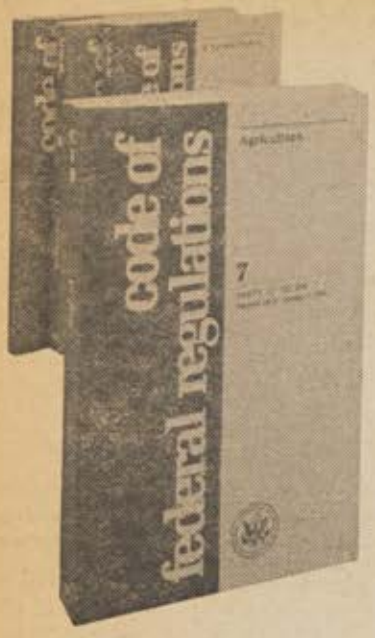
List of Public Laws

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 May 6, 1983

Code of Federal Regulations

Revised as of January 1, 1958



Just Released

Code of Federal Regulations

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