AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

6-27-83
Vol. 48 No. 124
Pages 29463-29664

federal register

Monday
June 27, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Administrative Practice and Procedure
Federal Energy Regulatory Commission
Aliens
Immigration and Naturalization Service
Aviation Safety
Federal Aviation Administration
Cargo Vessels
Coast Guard
Crop Insurance
Federal Crop Insurance Corporation
Fisheries
National Oceanic and Atmospheric Administration
Medicaid
Health Care Financing Administration
Milk Marketing Orders
Agricultural Marketing Service
Motor Vehicle Safety
National Highway Traffic Safety Administration
Radio Broadcasting
Federal Communications Commission
Surface Mining
Surface Mining Reclamation and Enforcement Office

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Television Broadcasting
Federal Communications Commission

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 124
Monday, June 27, 1983

The President
EXECUTIVE ORDERS
29463 Women's Business Ownership, President's Advisory Committee on (EO 12426)

Executive Agencies

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
29523 New England
29529 Oregon-Washington

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation.

Air Force Department
NOTICES
Meetings:
29573 Scientific Advisory Board (2 documents)

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
29539 Northern Sonoma, Calif.
29541 Walla Walla Valley, Wash. and Oreg.
NOTICES
29650 Firearms, granting of relief

Arms Control and Disarmament Agency
NOTICES
29563 Privacy Act; systems of records; annual publication

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
29614 Behavioral risk factor surveillance systems

Child Support Enforcement Office
NOTICES
Grants; availability, etc.:
29615 Research and demonstration projects

Civil Aeronautics Board
NOTICES
29563 Agency forms submitted to OMB for review
29563 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
29564 Northern Air Lines, Inc.

Coast Guard
RULES
Bridges:
29479 Location and clearances, drawbridge operations, permits, and penalties; changed procedures; correction
Organization, functions, and authority delegations:
29486 Merchant Marine Safety Office, staff codes and addresses; correction
29486 Vessel documentation; correction
PROPOSED RULES
Cargo vessels:
29551 Great Lakes vessels; damage stability requirements, advance notice; extension of time

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
29572 Commodity Exchange, Inc.; aluminum

Comptroller of Currency
RULES
29466 Freedom of Information Act; implementation; correction

Defense Department
See Air Force Department.

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
29574 Ashland Petroleum Co.
29574 Brewer Co., Inc.
29575 Buffalo Color Corp.
29575 Carlisle Tire & Rubber Co.
29576 Vulcan Materials Co.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
29574 European Atomic Energy Community
29574 European Atomic Energy Community and Austria
29573 European Atomic Energy Community and Canada
29573 International Atomic Energy Agency
29663 Spent nuclear fuel from nuclear power reactors; nonnuclear weapon countries assistance by U.S. commercial organizations; inquiry

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
29479 New Hampshire
NOTICES
29599 Agency forms submitted to OMB for review
Meetings:
29608 Hexachlorocyclopentadiene, draft health assessment document
29600 Science Advisory Board

Toxic and hazardous substances control:
29601 Premanufacture notices; monthly status reports
29600 Premanufacture notification requirements; test marketing exemption approvals

Federal Aviation Administration
RULES
Airworthiness directives:
29472 Airbus Industrie
29467 Boeing
29466, 29468, 29473 Cessna (3 documents)
29470 Lockheed
29471 McDonnell Douglas
PROPOSED RULES
Airworthiness directives:
29535–29538 British Aerospace (4 documents)
NOTICES
29647 Rulemaking petitions; summary and disposition

Federal Communications Commission
RULES
Land mobile services:
29512 Interconnection with public switched telephone network
Radio broadcasting:
29486 Commercial FM broadcast stations; increase of availability
PROPOSED RULES
Television broadcasting:
29553 Instructional television fixed service
Television stations; table of assignments:
29551 Nevada and California
29552 Texas
NOTICES
Hearings, etc.:
29608 Chase Communications Co. et al.
29608 North Georgia Television, Ltd., et al.

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
29520 Peaches

Federal Election Commission
NOTICES
29658 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
29474 Hydroelectric power projects, small; exemptions from licensing requirements; petition for stay granted
Practice and procedure:
29477 Oil pipeline tariff filings; notice procedures and protest and intervention time limits
Public Utility Regulatory Policies Act:
29475 Enforcement role of FERC; policy statement
NOTICES
Hearings, etc.:
29576 Alabama-Tennessee Natural Gas Co. et al.
29577 Connecticut Municipal Electric Energy Cooperative et al.
29584 Edmisten, Rufus L., et al.
29579 El Paso Natural Gas Co.
29579 Florida Gas Transmission Co.
29580 Montana-Dakota Utilities Co.
29580 National Fuel Gas Supply Corp.
29581 Northern Border Pipeline Co.
29581 Northwest Central Pipeline Corp.
29582 Northwest Pipeline Corp.
29582 Tennessee Gas Pipeline Co.
29582 Transcontinental Gas Pipe Line Corp.
29583 United Gas Pipe Line Co. et al.
29585 Von Schack, Wesley W.
29586 Hydroelectric applications
29657 Meetings; Sunshine Act
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
29578 Delval Properties, Inc.
29580 Miramar Hawaii
29583 Uncle Ben's Inc.
29586 Wildwood Power Station Inc.

Federal Maritime Commission
NOTICES
Energy and environmental statements; availability, etc.:
29610 Port of Seattle and Harbor Island Marine Associates
Freight forwarder licenses:
29611 Atlas International
29610 Castle International Co.
29610 Chalmers Shipping Co., Ltd.
29611 Charles A. Tague, Inc.
29611 Hawk World International Corp.
29612 Ivory Vanlines
29611 New York Forwarding Services et al.

Federal Mine Safety and Health Review Commission
NOTICES
29659 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
29614 Bennett Bancorporation et al.
29613 European American Bancorp
29612 Independence Bank Group, Inc.
Bank holding companies; proposed de novo nonbank activities:
29612 Horizon Bancorp et al.

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
29564 Vermont

Health and Human Services Department
See Centers for Disease Control; Child Support Enforcement Office; Health Care Financing Administration; Public Health Service.

Health Care Financing Administration
RULES
Medicaid:
29480 Interest on disputed medicaid claims

Hearings and Appeals Office, Energy Department
NOTICES
29597 Special refund procedures; implementation and inquiry (Mustang Fuel Corp.)

Immigration and Naturalization Service
RULES
Aliens:
29465 Employment authorization, eligible classes

Interior Department
See Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
29538 Stock options, nonqualified; reporting requirements; withdrawn

International Trade Administration
NOTICES
Countervailing duties:
29564 Carbon black from Mexico
Meetings:
29570 Exporters' Textile Advisory Committee
29570 Management-Labor Textile Advisory Committee
29570 Semiconductor Technical Advisory Committee

Interstate Commerce Commission
NOTICES
Motor carriers:
29634 Finance applications
29628, 29631 Permanent authority applications (2 documents)
29637 Released rates applications
29623 Temporary authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
29633 Overland Transportation System, Inc., et al.
Railroad operation, acquisition, construction, etc.:
29636 Grand Trunk Western Railroad Co.
29636 Tongue River Railroad Co.

Justice Department
See Immigration and Naturalization Service.

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
29618 NANA Regional Corp., Inc. (2 documents)
Coal leases, exploration licenses, etc.:
29619 Montana; correction
Management framework plans, review and supplement, etc.:
29619 Oregon
Maps of public lands and Federal mineral rights; availability:
29620 Michigan
Meetings:
29619 Susanville District Grazing Advisory Board
Withdrawal and reservation of lands, proposed, etc.:
29619 Montana
29619 Utah; cancellation

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
29620 Barrow Arch, Alaska; lease offering

Minority Business Development Agency
NOTICES
Finance assistance application announcements:
29570 Texas

National Aeronautics and Space Administration
NOTICES
Meetings:
29637 Advisory Council

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
29560 Hydraulic brake systems; air brake systems
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
29649 Dunlop Tire & Rubber Corp.

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
29518 Atlantic surf clam and ocean quahog
NOTICES
Marine mammal permit applications, etc.:
29571 Sea World, Inc.; comment period reopened
29571 Volcano Isle Wholesale Fish Co., Inc.
Meetings:
29571 Pacific Fishery Management Council

Nuclear Regulatory Commission
NOTICES
29659 Meetings; Sunshine Act

Oceans and Atmosphere, National Advisory Committee
NOTICES
29637 Meetings

Peace Corps
NOTICES
29638 Agency forms submitted to OMB for review

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans; bond/escrow exemption requests:
29638 Heinemann's Inc., et al.

Postal Rate Commission
NOTICES
29639 Visits to facilities

Postal Service
NOTICES
29659 Meetings; Sunshine Act

Public Health Service
NOTICES
Medical technology scientific evaluations:
29617 Hyperbaric oxygen therapy
Meetings:
29617 Vital and Health Statistics National Committee

Revenue Sharing Office
NOTICES
Entitlement period allocations:
29651 Data improvement program

Science and Technology Policy Office
NOTICES
Meetings:
29646 White House Science Council

Securities and Exchange Commission
NOTICES
Hearings, etc.:
29641 New LBC Corp.
Self-regulatory organizations; proposed rule changes:
29639, 29640 Municipal Securities Rulemaking Board (2 documents)
29642, 29645 New York Stock Exchange, Inc. (2 documents)

Small Business Administration
NOTICES
Applications, etc.:
29646 Columbia Capital Corp.
Authority delegations:
29646 Hearings and Appeals, Assistant Administrator

Student Financial Assistance, National Commission
NOTICES
29659 Meetings; Sunshine Act

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation program; plan submissions:
29544 Kentucky; amendment
Coal mining; Federal/State cooperative agreements:
29545 Virginia

Synthetic Fuels Corporation
NOTICES
29660 Meetings; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
29572 Hong Kong

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.
RULES
Intergovernmental review of agency programs and activities (*Editorial Note:* For a document on this subject, see entry in the **Federal Register** of June 24, 1983.)

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Internal Revenue Service; Revenue Sharing Office.

Separate Part in This Issue

Part II
29663 Department of Energy

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
12426 29463

7 CFR
Proposed Rules:
403 29520
1001 29523
1124 29529

8 CFR
109 29465

12 CFR
4 29466

14 CFR
21 29466
23 29466
39 (6 documents) 29467–29473
Proposed Rules:
39 (4 documents) 29535–29538

18 CFR
4 29474
292 29475
385 29477

26 CFR
Proposed Rules:
1 29538

27 CFR
Proposed Rules:
9 (2 documents) 29539, 29541

30 CFR
Proposed Rules:
917 29544
946 29545

33 CFR
115 29479
117 29479

40 CFR
52 29479

42 CFR
433 29480

46 CFR
32 29486
67 29486
Proposed Rules:
93 29551

47 CFR
73 29486
90 29512
Proposed Rules:
73 (2 documents) 29551, 29552
74 29553

49 CFR
Proposed Rules:
571 29560

50 CFR
652 29518

Federal Register
Vol. 48, No. 124
Monday, June 27, 1983

Presidential Documents

Title 3—

The President

Executive Order 12426 of June 22, 1983

President's Advisory Committee on Women's Business Ownership

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee on women's business ownership, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Advisory Committee on Women's Business Ownership. The Committee shall be composed of no more than 15 members appointed or designated by the President. These members shall have particular knowledge and expertise concerning the current status of businesses owned by women in the economy and methods by which these enterprises might be encouraged to expand.

(b) The President shall designate a Chairperson from among the members of the Committee.

Sec. 2. *Functions.* (a) The Committee shall review the status of businesses owned by women; foster, through the private sector, financial, educational, and procurement support for women entrepreneurs; and provide appropriate advice to the President and the Administrator of the Small Business Administration on these issues.

(b) The Committee shall submit reports to the President on a periodic basis.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Committee such information as it may require for purposes of carrying out its functions.

(b) Members of the Committee shall serve without compensation for their work on the Committee. However, members appointed from among private citizens of the United States may, subject to the availability of funds, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Administrator of the Small Business Administration shall, to the extent permitted by law, provide the Committee with such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of the Small Business Administration, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate one year from the date of this Order.

Ronald Reagan

THE WHITE HOUSE,
June 22, 1983.

[FR Doc. 83-17428
Filed 6-24-83; 10:43 am]
Billing code 3195-01-M

Editorial Note: The President's remarks of June 22, 1983, on signing Executive Order 12426, are printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 25).

Rules and Regulations

Federal Register
Vol. 48, No. 124
Monday, June 27, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 109

Employment Authorization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule clarifies the existing regulations relating to employment authorization for aliens who have been admitted to the United States. The rule now makes it clear that employment authorization is dependent upon the alien's status and such authorization continues until the alien's status is changed.

EFFECTIVE DATE: June 28, 1983

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Attorney-Advisor, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.
For Specific Information: Joseph D. Cuddihy, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On November 12, 1981 at 46 FR 55920 (Nov. 13, 1981), the Service published a final rule adding a new Part 109 to Chapter I of Title 8 of the Code of Federal Regulations to codify the procedures and criteria for granting employment authorization to aliens in the United States. This final rule amends Part 109 to clarify who is eligible for employment authorization, under what conditions employment can be authorized, and when such authorization terminates.

Section 109.1(a) is amended to provide that an alien admitted into the United States as a refugee under section 207 of the Act, paroled into the United States as a refugee, or granted asylum under section 208 of the Act is only authorized employment while the alien remains in that status. In addition, an alien admitted to the United States as a nonimmigrant fiance or fiancee is only authorized employment for the period of nonimmigrant admission to the United States.

Section 109.1(b) of title 8 is amended to include the dependents of employees described in § 214.2(a)(3) as individuals eligible for employment. It is also amended to expand employment authorization for the minor children of exchange visitors.

Sections 109.2 and 109.3 of Title 8 are amended to specify the period of time that permission to accept employment is authorized.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule is interpretative and merely clarifies the provisions of an existing rule for the benefit of the affected public.

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

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

List of Subjects in 8 CFR Part 109

Aliens, Employment.

Accordingly, Title 8, Chapter I is amended as follows:

PART 109—EMPLOYMENT AUTHORIZATION

In § 109.1 paragraphs (a)(2), (a)(3), (a)(4), (a)(5), (b)(1)(i), (b)(1)(iv), (b)(2), and (b)(3) are revised as follows:

§ 109.1 Classes of aliens eligible.

(a) * * *

(2) An alien admitted to the United States as a refugee under section 207 of the Act for the period of time in that status.

(3) An alien paroled into the United States as a refugee for the period of time in that status.

(4) An alien granted asylum under section 208 of the Act for the period of time in that status.

(5) An alien admitted to the United States as a nonimmigrant fiance or fiancee for the period of admission to the United States.

* * * * *

(b) * * *

(1) * * *

(i) Alien spouse or unmarried dependent son or daughter of a foreign government official (A-1) or (A-2) as provided in § 214.2(a)(2) of this title, or the dependent of an employee as provided by § 214.2(a)(3) of this title.

* * * * *

(iv) Alien spouse or minor child of an exchange visitor (J-2) as provided in § 214.2(j) of this title.

(2) Any alien who has filed a non-frivolous application for asylum under Part 208 of this title may be granted permission to be employed for the period of time necessary to decide the case; however, temporary employment authorization is automatically terminated upon denial of the application by the district director immigration judge. If the application is approved, employment authorization would be continued under § 109.1(a)(4) of this title.

(3) Any alien who has properly filed an application for adjustment of status to permanent resident alien, or who has submitted an application for adjustment of status simultaneously with a visa petition under § 245.(a)(2) of this title, may be granted permission to be employed for the period of time necessary to decide the case; however, temporary employment authorization is automatically terminated upon denial of the application by the district director or immigration judge. If the application is approved, employment authorization would be continued under § 109.1(a)(1) of this title.

* * * * *

(Secs. 103, 212, 245 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1182, 1255)

Dated: June 7, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83-17253 Filed 6-24-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 4

[Docket No. 83-27]

Description of Office, Procedures, Public Information; Correction

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a legal citation contained in final regulation revising 12 CFR Part 4 relating to description of office, procedures, and public information which was published May 31, 1983 (48 FR 24028).

FOR FURTHER INFORMATION CONTACT: Jerome Edelstein, Attorney, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

Accordingly, the Office of the Comptroller of the Currency is correcting 12 CFR 4.16(b)(3) to read as follows:

On page 24029, third column, Section 4.16(b)(3) is corrected to read as follows:

§ 4.16 Other records available to public; exceptions.

* * * * *

(b) * * *

(3) A record, or portion thereof, specifically exempted from disclosure by statute (other than section 552b of Title 5 of the United States Code), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

* * * * *

Dated: June 20, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-17126 Filed 6-24-83; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 23557; Special Conditions No. 23-ACE-3]

Special Conditions; Cessna Model 208 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These Special Conditions are issued under §§ 21.16 and 21.101(b) of the Federal Aviation Regulations (FAR) to the Cessna Aircraft Company (Cessna) for the Cessna Model 208 airplane. The airplane will have novel and unusual design features associated with a turbine engine installation in a single engine airplane for which the applicable airworthiness standards of Part 23 of the FAR do not contain adequate or appropriate safety standards. These Special Conditions contain the safety standards which the Administrator finds necessary to establish a level of safety equivalent to that provided in the regulations for reciprocating-engine-powered, single engine airplanes.

EFFECTIVE DATE: July 27, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office, ACE-110, Aircraft Certification Division, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106; Telephone (896) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The type certification basis for the Cessna Model 208 airplane is Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965, as amended by Amendments 23-1 through 23-28; Part 36 of the FAR, effective December 1, 1969, as amended by Amendments 36-1 through 36-12; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, as amended by Amendments 27-1 through 27-4 and Special Conditions No. 23-ACE-3.

Background

On June 2, 1982, Cessna Aircraft Company, Pawnee Division, 5800 East Pawnee, Wichita, Kansas 67201, submitted an application for a Type Certificate for a new airplane identified as the Cessna Model 208. The Model 208 is a single engine, turbopropeller-powered, unpressurized, high wing monoplane with a 9-passenger seating configuration, excluding pilot seats. The airplane can be configured as a landplane, a floatplane, a skiplane, or an amphibian.

In 1969, the flutter requirements of § 23.629 of the FAR were amended to set forth requirements for turbopropeller engine installations on small multiengine airplanes. Turbopropeller engine installations, being greater in length than those of reciprocating engines, are more critical with regard to engine mount flexibility. This forward displacement of the propeller, in conjunction with the high rotational speed of the turbine engine, may cause significant elastic, inertial, and aerodynamic forces and dynamic instabilities which can adversely affect airplane flutter stability. Turbine engine installations on a single engine airplane were not envisioned when § 23.629 of the FAR was amended to include a dynamic evaluation of engine/propeller stiffness and damping variations in multiengine, turbine-powered airplanes. The mount flexibility in this new Cessna Model 208 airplane appears to be of the same order of magnitude as that on multiengine airplanes with wing mounted engines. Thus, it should be investigated.

Discussion of Comments

One public comment was received in response to Notice No. SC-83-1-CE which was published in the **Federal Register** (48 FR 12389; March 24, 1983) The commenter agrees with the intent and concept of the proposed Special Conditions.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 23

Air transportation, Aircraft, Aviation safety, Safety, Tires.

Adoption of the Special Conditions

In consideration of the foregoing, the following Special Conditions are issued to Cessna Aircraft Company for type certification of the Cessna Model 208 airplane.

Dynamic Evaluation, Engine Installation

In addition to the applicable requirements of § 23.629, *Flutter*, of the FAR, the dynamic evaluation of the airplane must include:

1. Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces; and

2. Engine-propeller-engine mount stiffness and damping variations appropriate to the particular configuration.

(Sec. 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) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.28(b) and 11.49(b))

Issued in Kansas City, Missouri on June 16, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-17191 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 82-NM-116-AD; Amdt. 39-4673]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and repair, if necessary, of the wing upper surface stringers on Boeing Model 727 series airplanes. This AD was prompted by numerous reports of fatigue cracks orginating in the wing upper surface stringers. This action is necessary to ensure the structural integrity of the wing.

DATES: Effective August 16, 1983.

Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the address shown below. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68968, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, of the wing upper surface stringers on Boeing Model 727 series airplanes was published in the Federal Register on January 17, 1983 (48 FR 1979). The comment period closed on February 16, 1983.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to all comments received.

The manufacturer and the Air Transport Association of America (ATA), commenting on behalf of its member operators, requested that the initial inspection of affected stringer to rib attachments previously repaired per Structural Repair Manual (SRM) Subject 57-10-4 or any other approved method at the last "D" check or later, be deferred until the next required inspection of the remaining stringers. The FAA does not concur. The request could result in repaired structure accumulating up to 44,000 landings, which is significantly greater than the threshold at which service experience has shown cracks to occur. Cracking could thus occur well in advance of the first inspection of repaired structure; nevertheless, the FAA does consider the original proposal to be too restrictive. Since the SRM repair has been found to have a fatigue resistance at least as good as new structure, the threshold for initially inspecting repaired structure should be the same as that for new structure. For that reason, the AD, as adopted, requires that stringers repaired per the SRM or any other approved method within the last 22,000 landings, be inspected within the next 11,000 landings or prior to accumulating 33,000 landings after the repair. The ATA also requested that the reinspection interval be increased when using eddy current methods to "D" checks with no interim visual inspections and to ½ "D" checks when using visual or x-ray methods. To support its request, the ATA presented several operators' maintenance programs and the service experience using these programs. The manufacturer also commented that it agrees with the ATA's request. The FAA concurs that this request would not have an adverse effect on safety, but due to the variability in "D" check timing among different operators it is necessary to assign a fixed number of landings to a "D" check interval. A review of various operators' maintenance programs revealed a "D" check to be equivalent to 22,000 landings. The AD as adopted incorporates the ATA's requests with a "D" check equal to 22,000 landings.

One commenter recommended that a provision be included to permit interval extensions, subject to local FAA approval. The FAA does not concur. The evaluation of inspection intervals requires the use of engineering technology which may not be available to FAA personnel at the local level. Such requests must be approved by the Manager, Seattle Aircraft Certification Office.

One commenter requested that paragraph C. of the proposed AD be revised to include allowable crack limits for limited service after inspection to allow for scheduling flexibility. The FAA does not concur. The cracking mechanism is not completely understood. While it is thought to be fatigue driven by certain fuel loading conditions, it has not been possible to adequately define these loads and their frequency. Because of these uncertainties, it is not possible to establish allowable crack length and growth rates.

One commenter requested that the paragraph C. of the proposal be revised to allow repair in accordance with the structural repair manual provided the repetitive inspections required by paragraph B. are continued. The FAA concurs that this would not have an adverse affect on safety. The AD, as adopted, incorporates this provision.

One commenter requested that the initial inspection thresholds be increased by 500 landings to allow for scheduling contingencies. The FAA does not concur. These thresholds were established based on known fleet service experience. In the absence of data to justify the increase for all affected airplanes the request is not acceptable.

Approximately 1,200 airplanes of U.S. registry will be affected by this AD. It is believed that the most expensive inspection method will be eddy current inspection which will take approximately 80 manhours and that the average labor cost will be $35 per manhour. Based on these figures, the total inspection cost impact of this AD is estimated not to exceed $3,360,000. This estimate does not include repair costs because of the unknown extent of damage in the fleet. For this reason the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Boeing: Applies to Model 727 series airplanes except Model 727–200F certificated in all categories.

Compliance is required as indicated unless already accomplished.

To ensure the structural integrity of the wing upper surface stringers, accomplish the following in accordance with Boeing Alert Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revisions.

A. Using Eddy current, x-ray or visual inspection techniques initially inspect affected wing upper surface stringers for cracks in accordance ith the following times:

1. For airplanes with 45,000 or more landings inspect within the next 1000 landings after the effective date of this AD.

2. For airplanes with at least 40,000 and less than 45,000 landings inspect within the next 2,000 landings after the effective date of this AD.

3. For all other airplanes inspect within the next 3,000 landings, or prior to accumulating 33,000 total landings, whichever occurs later.

4. For affected wing stringer rib attach locations previously repaired within the last 22,000 landings, in accordance with Structural Repair Manual Subject 57–10–4 or any other FAA approved method, (except Service Bulletin 727–57A159, Revision 1 or later FAA approved revisions) inspect within the next 11,000 landings or prior to accumulating 33,000 landings since repair, whichever occurs later.

5. Inspections accomplished in accordance with Service Bulletin 727–57A159 prior to the effective date of this A.D. satisfy the initial inspection requirements of this A.D.

B. Reinspect the affected structure at the following intervals:

1. If eddy current methods are used, reinspect at intervals not to exceed 22,000 landings.

2. If x-ray or visual methods are used, reinspect at intervals not to exceed 11,000 landings.

C. Any cracked structure is to be repaired prior to further flight in accordance with procedures listed in Boeing Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revisions or the Structural Repair Manual. The repetitive inspections required by paragraph B are to be continued except as provided for in paragraph D.

D. Repair or modification in accordance with Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revisions eliminates the inspection requirements of paragraphs A and B, and constitutes terminating action for the requirements of this AD.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time-in-service by the operator's fleet average time from takeoff to landing for the aircraft type.

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

All persons affected by this directive who have not already received the applicable service documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This AD becomes effective August 16, 1983.

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

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

Issued in Seattle, Washington on June 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–17196 Filed 6–24–83; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 82–CE–38–AD; Amendment 39–4672]

Airworthiness Directives; Cessna Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, and R182 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, and R182 airplanes equipped with bladder fuel cells and a single primary fuel tank vent. It requires installation of a placard adjacent to the fuel quantity gauges, repetitive inspections of the airplane for indications of fuel tank cap leakage and correction of any unsatisfactory conditions found. Incidents of fuel loss, erroneous fuel quantity indications and undrainable water in the bladder cells have been reported to the FAA. Forced landings and accidents due to fuel depletion and/or contamination have been attributed to these conditions. This action will reduce or eliminate the causes of these conditions and aid the pilot in diagnosing erroneous fuel quantity indications and selecting the correct course of action to avoid fuel exhaustion or contamination and a resulting accident.

EFFECTIVE DATE: August 1, 1983.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable Cessna Service Information Letters SE80–59, Supplement 1 and SE82–34 and Owner Advisories SE80–59A and SE82–34A may be obtained from Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201; Telephone number (316) 685–9111. 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: Paul O. Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 269–7010.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring installation of an informational placard near the fuel quantity gauges, repetitive inspections of the airplane for indications of fuel cap leakage and correction of any unsatisfactory conditions found on certain Cessna Model 182 Series and Model R182 airplanes was published in the Federal Register on January 13, 1983 (48 FR 1515–1517). The proposal resulted from service reports of erroneous fuel quantity indications and loss of fuel from ineffective fuel cap seals. Generally speaking, sufficient negative pressure (suction) is developed over the upper surface of an airplane wing to draw air and/or fuel around an inadequately sealed fuel tank cap located in the area. Depending on many factors such as airplane wing loading, speed, quantity of leakage around the seal, condition of the fuel tank vent system, the quantity of air drawn past the cap may be more than the normal vent system can replace. In this case sufficient suction is developed in the

tank to pull the fuel cell bladder snaps from their attachments in the tank compartment and lift the bottom of the bladder fuel cell from the floor of the tank compartment. The fuel cell collapse and the adverse effect of this problem on airworthiness is believed isolated to the Cessna 182 series airplanes having bladder cells and a single primary vent system. This belief is based on a study of Malfunction and Defect Reports received by the FAA. In addition to the condition cited above, deformed fuel cell bladders may also create undrainable traps which collect water when the airplane is in the ground attitude, then allow it to run to the tank outlet and overload existing airplane fuel system sumps after takeoff. Several accidents have been attributed to these conditions on the Cessna 182 series airplanes having bladder fuel cells. Available facts indicate that an unsafe condition exists when the cap leaks and causes fuel contamination/loss and/or fuel tank deformation. Among the identified causes of this condition are (1) improper cap installation, (2) deteriorated cap seals, (3) improper or incorrect seal installation and (4) corroded adapters. The manufacturer has declined to make additional design changes to reduce the probability of or prevent these conditions because it believes that proper cap installation and periodic maintenance in accordance with its published service information already available to the owner/operators will preclude the problems cited.

The FAA agrees that proper cap installation and maintenance of the cap in accordance with already available instructions is necessary to assure the cited conditions do not occur. However, in view of normal refueling practices and variation in the levels of maintenance given the airplanes involved, one or more of the above cited causes may occasionally occur and combine with other variables in a manner which causes the problem. The FAA concludes that a placard should be installed near the fuel quantity gauges to warn the pilot that a leaking fuel cap can cause loss of fuel and erroneously high fuel quantity indications. Also all the fuel tanks should be inspected to assure that the fuel cap installation is adequately maintained.

There are approximately 15,000 Cessna 182 series airplanes having a single primary fuel vent and bladder fuel cells. The estimated cost of installing the placard is $10.00, for a total one time private sector cost of $150,000. The cost of the yearly inspection is considered negligible. No additional cost is estimated for the correction of any unsatisfactory conditions found as this cost would now be included in the normal maintenance of the airplanes.

Interested persons have been afforded an opportunity to comment on the proposal.

One commenter agreed with the proposed AD action but recommended a check for fuel cap leakage per Cessna Owner Advisory SE82-34A be required within 90 days. The AD as written would require correction of any unsatisfactory conditions including fuel cap leakage detected during inspections required every 12 months in accordance with the manufacturer's service information which includes this document. The FAA believes that checks per this document are only necessary when indications of fuel leakage are detected by inspections now being accomplished or required elsewhere in the proposal. A requirement for compliance with this document within 90 days would have little if any beneficial effect on airworthiness of the airplanes affected because it has been published for approximately one year and is being complied with voluntarily by many operators as the need is perceived during the annual inspection of the airplanes. The FAA has no data to justify an arbitrary 90 days requirement for compliance with this advisory. However, to further clarify the FAA intent as to the action to be taken following discovery of fuel leakage, specific reference to the related Cessna Service Information Letters SE82-34 and SE80-59 Supplement I will be incorporated in the adopted rule.

One commenter objected only to a requirement that the fuel cells be inspected beyond the annual inspection. The proposal and adopted rule do not exceed this criteria.

Additionally, the FAA has noted after issuance of the proposal that the Cessna P/N 120525-1 Fuel Cap Alignment Placard is required only on airplanes having Cessna C156001-0106 Plastic Caps installed. This will also be incorporated in the adopted rule, therefore, the final rule is being adopted in accordance with the notice, except for the above changes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Cessna: Applies to Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q (all serial numbers except 66590 and on) and R182 (S/N R18200002 through R18200583) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To alert the pilot to the potential effects of improper fuel cap sealing:

(a) Within the next 12 calendar months after the effective date of this AD install a placard adjacent to the fuel quantity gauges which states:

"CAUTION

Leaking fuel caps can cause loss of fuel and erroneously high fuel quantity indications."

This placard may be fabricated by the owner/operator of the airplane. The person accomplishing this must make the prescribed entry in aircraft maintenance records reflecting compliance with paragraph (a) of this AD.

(b) Within the next 12 calendar months after the effective date of this AD and each 12 calendar months thereafter:

(1) Visually inspect, the surface of the wing aft of the fuel cap for evidence of leakage, the fuel cap seals for cracks, distortion and or any condition which may prevent sealing and the sealing surface of the adapter for scratches, corrosion, distortion or other conditions which may prevent sealing. If any of these conditions are noted inspect the fuel tank for wrinkles in the bottom and proper attachment of the retaining snaps to the compartment. Prior to further flight, correct any unsatisfactory conditions in accordance with the manufacturers maintenance manuals or service information which should include inspection of the fuel tank installation in accordance with Cessna Service Letter SE82-34A Fuel cap repairs should be accomplished in accordance with Cessna Service Letter SE80-59 Supplement 1.

(2) On airplanes having Cessna P/N C156001-0106 plastic cap installed, visually inspect the adapter for presence and legibility of the Cessna P/N 1205253-1 Fuel Cap Alignment Placard and prior to further flight install new placards if required.

(3) Check the tension of the fuel cap locking mechanism by operating the tab. If necessary, prior to further flight adjust in accordance with the manufacturers service manuals/information to obtain proper sealing pressure between the cap and adapters.

(c) Airplane may be flown per FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used if it is approved by Manager, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209.

Cessna Service Information Letter SE79-45, SE80-59, Supplement 1 and SE82-34A and Owner Advisories SE80-59A and SE82-34A pertain to the subject matter of this AD.

This amendment becomes effective on August 1, 1983.

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

Note.—The FAA has determined that this regulation involves 15,000 airplanes at an approximate one time only cost of $10.00 for each aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri, on June 16, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-17197 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 82-NM-43-AD; Amdt. 39-4671]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rules.

SUMMARY: On May 7, 1982, the FAA issued a Telegraphic Airworthiness Directive (AD) T82-10-52, to all known operators of Lockheed-California Company Model L-1011-385 series airplanes, certificated in all categories. This AD requires inspection and replacement or repair, if necessary, of the Main Landing Gear (MLG) Shock Strut Cylinders. This action was prompted by an incident where a stress corrosion crack originating from the bore of the inboard retract actuator lug on the left main landing gear (MLG) strut cylinder resulted in a complete fracture of the MLG strut cylinder. This AD is hereby published in the Federal Register to make it effective to all persons. In addition, the AD is amended to: (1) Provide an alternate (ultrasonic) inspection procedure; (2) provide a terminating action; (3) reduce the area to be inspected; and (4) reduce the repetitive inspection interval for the visual inspection. This last item was made necessary because further analysis by the manufacturer indicated that a shorter interval was needed to detect cracks before they became critical.

DATE: Effective July 6, 1983.

This AD was effective earlier to all recipients of Telegraphic AD T82-10-52 dated May 7, 1982.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11,U-33, B-1. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coo, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2825.

SUPPLEMENTARY INFORMATION: During roll-out after landing of an L-1011, the left main landing gear (MLG) unsafe light illuminated and the airplane was stopped on the runway. Subsequent investigation revealed that the left MLG shock strut cylinder had fractured and separated around its complete circumference in the area of the MLG retract actuator lugs. The fracture was the result of a crack emanating from the bore of the inboard retract actuator lug of the shock strut cylinder. Heavy corrosion was found in this area. Continued operation with a cracked retract lug could lead to a similar fracture of the shock strut cylinder, or detachment of the retract actuator and unrestrained free fall of the MLG with possible gear collapse after landing. As a result, a Telegraphic Airworthiness Directive (AD) T82-10-52 was issued on May 7, 1982, applicable to all known operators of Lockeed-California Company Model L-1011-385 series airplanes, certificated in all categories, which required inspection and replacement, if necessary, of the MLG shock strut cylinder. This AD differs from the previously issued Telegraphic AD T82-10-52 by (a) addition of an alternate ultrasonic inspection procedure that may be accomplished on a less frequent schedule; (b) specifying terminating action by means of the repair/modification specified in Lockheed-California L-1011 Service Bulletin 093-32-211; (c) deleting the requirement for special inspection of the MLG outboard shock strut cylinder retract lugs; and (d) a reduction in the visual inspection intervals. This last item was made necessary because further analysis by the manufacturers indicated that a shorter interval was needed to detect cracks before they became critical.

Since this condition was likely to exist or develop on other airplanes of the same type design, a telegraphic airworthiness directive was issued which required inspection of the MLG shock strut cylinders. This AD is now published to make it effective to all persons and is amended as described above.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Lockheed-California Company: Applies to Lockheed-California Model L-1011-385 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

A. To detect cracks and prevent structural failure of the Main Landing Gear (MLG) shock strut cylinder, accomplish the following:

1. For strut cylinders which have aluminum-nickel-bronze bushings installed as specified in Lockheed-California L-1011 Service Bulletin 093-32-131, Revision 3, dated October 26, 1977, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, conduct an initial inspection per Paragraphs C.1. or C.2. below within 30 calendar days after the effective date of this AD, or upon the accumulation of 7,500 flight hours time in service since the installation of the aluminum-nickel-bronze bushings, whichever is later. Thereafter, repeat the visual inspection specified in Paragraph C.1. at intervals not to exceed 40 landings, or the ultrasonic inspection specified in Paragraph C.2. at intervals not to exceed 400 landings.

2. For strut cylinders not modified in accordance with Lockheed-California L-1011 Service Bulletins 093-32-211, dated October 5, 1982, or 093-32-131, Revision 3, dated October 26, 1977, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, inspect per Paragraph C.2. below, within 30 calendar days after the effective date of this AD. Thereafter, repeat the visual inspections specified in Paragraph C.1. at intervals not to exceed 40 landings, or the ultrasonic inspection specified in

Paragraph C.2. at intervals not to exceed 400 landings.

B. Operators who have already accomplished an initial inspection subsequent to April 20, 1982, in accordance with Paragraph C below, or in accordance with Lockheed-California Company Alert Service Bulletin Wire 093-32-A211, dated April 29, 1982, or in accordance with Telegraphic AD T82-10-52, have satisfied the initial inspection requirements of this amendment.

C. 1. Perform a close visual inspection for cracks at the exposed surfaces of the inboard retract actuator lug, on each MLG shock strut, per Section 2, Accomplishment Instructions, of Lockheed-California L-1011 Service Bulletin 093-32-A211, Revision 1, dated October 26, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office. If there are any noticeable or suspected signs of cracks on the paint, remove both the paint and primer and reinspect the area for cracks.

2. Perform ultrasonic inspection of the inboard retract lugs of both the left and right MLG shock strut cylinder following the procedure specified in Section 2, Accomplishment Instructions, of Lockheed-California L-1011 Service Bulletin 093-32-A211, Revision 1, dated October 26, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office.

D. Repair or replace the MLG shock strut cylinders found cracked before further flight, in accordance with Section 2, Accomplishment Instructions, of Lockheed-California L-1011 Service Bulletin 093-32-211, dated October 5, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office.

E. Installation of stainless steel bushings, in the inboard retract lugs of both the left and right MLG shock strut cylinder per Section 2, Accomplishment Instructions, of Lockheed-California L-1011 Service Bulletin 093-32-211, dated October 5, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, constitutes terminating action for the repetitive inspection requirements of Paragraph A.1 and A.2.

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

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington; or 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective, July 6, 1983, and was effective earlier to those recipients of Telegraphic AD T82-10-52, dated May 7, 1982.

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

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

Issued in Seattle, Washington on June 16, 1983.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-17198 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-NM-49-AD; Amdt. 39-4674]

Airworthiness Directives; McDonnell Douglas Model DC-8-70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of all four (4) engine pylon lower spar cap separation points on McDonnell Douglas DC-8-70 series airplanes. This modification is required to ensure proper pylon separation in the event of a gear-up landing, or similar operation, which could cause an engine pod to contact the ground. This AD is necessary to minimize the possibility of rupturing the wing fuel tanks in the event of engine pylon separation.

DATE: Effective July 7, 1983.

Compliance required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: During recent laboratory testing of the DC-8-70 pylon, the fuse bolts in the pylon lower spar caps yielded more than anticipated before rupture. This could result in improper separation of the pylon from the wing in the event of a gear-up landing, or similar operation, in which the engine pod contacts the ground, presenting a potential fire hazard due to leaking fuel from ruptured wing tanks. Rework of the pylon lower cap separation points is considered essential to minimize the possibility of ruptured wing fuel tanks. The manufacturer has issued an Alert Service Bulletin recommending the installation of new washers, and modification of the nozzle fairing to assure proper separation of the pylon lower spar.

Since this situation exists on airplanes of the same type design, this AD requires installation of new washers on the secondary retention bolts and modification of the nozzle fairing to ensure proper separation of the pylon from the wing.

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

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-70 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent improper separation of the pylon from the wing, accomplish the following:

A. Within 300 hours time in service, after the effective date of this AD, modify the nozzle fairing and replace the washers on the secondary retention bolts in accordance with the Accomplishment Instructions in McDonnell Douglas DC-8-70 Alert Service Bulletin A54-67, Rev. 1, dated June 3, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective July 7, 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); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

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

Issued in Seattle, Washington on June 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-17195 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-51-AD; Amdt. 39-4675]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Airbus Industrie Model A300 series airplanes which requires modification or replacement of certain components of the main and nose landing gears. Fatigue test results have indicated the potential for various types of failure of these components, therefore, this AD is being issued requiring certain modifications and replacements.

DATES: Effective July 7, 1983.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

SUPPLEMENTARY INFORMATION: The French Direction Generale de l'Aviation Civile has classified certain Airbus Industrie (AI) and Messier-Hispano-Bugatti (MHB) service bulletins as mandatory. Results of fatigue tests done by the manufacturer have shown the need to reinforce or replace certain components of the main and nose landing gears, as follow:

Main Landing Gear

1. Reinforcement of the lower pin of torque links to prevent failure of the pin. A crack appeared in the pin during fatigue tests. (references: AI A300-32-077 and MHB 470-32-065 service bulletins).

2. Incorporation of bronze washers between tie rod and drag strut, and rework of drag strut. After applying loads with the actuating cylinder and under conditions simulating the aircraft weight, the drag strut fork end failed in the tie rod area. Also, incipient cracks appeared in the hole wall due to fretting. The test load conditions were equivalent to a service life of 20,000 landings. (references: AI A300-32-114 and MHB 470-32-110 service bulletins).

3. Reinforcement of end fitting in the actuating cylinder. The end fitting failed at the last thread engaged with the rod after a number of cycles equivalent to a service life of between 12,000 and 32,000 landings, depending on whether or not MHB modifications 252 and 311 were incorporated. (references: AI A300-32-116 and MHB 470-32-108 service bulletins).

4. Replacement of the original shock strut connecting rod with a reinforced rod, and increasing the radius which blends the two lugs of the connecting rod clevis to avoid interference between the connecting rod and barrel eye fitting. Cracks appeared in this area during fatigue tests after the equivalent of 12,000 landings. (references: AI A300-32-076, AI A300-32-096, MHB 470-32-040 and MHB 470-32-039 service bulletins).

5. Replacement of valve body in the brace assembly actuating cylinder to prevent failure of the valve. Cracks developed in the valve body during fatigue tests. (references: AI A300-32-036 and MHB 470-32-031 service bulletins).

Nose Landing Gear

6. Replacement of the piston in the actuating cylinder by a reinforced unit to prevent failure of the piston. Cracks were found on the piston after fatigue tests. (references: AI A300-32-904 and MHB 470-32-033 service bulletins).

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

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which would require the modifications or replacements decribed above.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

by adding the following new airworthiness directive:

Airbus Industrie: Applies to the model A300 series airplanes, certificated in all categories. To prevent failure of certain components of the main and nose landing gears, within 250 landings after the effective date of this AD or prior to the accumulation of the number of landings specified in each paragraph below, whichever occurs later, accomplish the following, unless previously accomplished:

A. Reinforce the lower torque link pins of the main landing gear in accordance with the instructions of Messier-Hispano-Bugatti (MHB) Service Bulletin 470-32-065, dated September 3, 1976, prior to the accumulation of 12,000 landings on B1 model aircraft, and 16,000 landings on B2-100, B2-200, B2-300, B4-100, B4-200 and C4-200 model aircraft, having the serial numbers specified in Airbus Industrie (AI) Service Bulletin A300-32-077, Revision 1, dated February 19, 1980.

B. Modify the main landing gear drag strut of aircraft with serial numbers specified by AI Service Bulletin A300-32-114, dated January 13, 1978, in accordance with the instructions of MHB Service Bulletin 470-32-110, dated November 28, 1977, prior to the accumulation of 20,000 landings.

C. Modify the actuating cylinder of the main landing gear for aircraft with serial numbers specified by AI Service Bulletin A310-32-116, Revision 6, dated September 17, 1982, in accordance with the instructions of MHB Service Bulletin 470-32-108, Revision 1, dated November 24, 1978, according to the following schedule:

1. For aircraft with modifications AI 1799 and 2025 originally installed, prior to the accumulation of 32,000 landings on B2 models or 22,000 landings on B4 models.

2. For aircraft with modifications AI 1799 and 2025 not originally installed, prior to the accumulation of 12,000 landings on both models B2 and B4.

D. Incorporate modifications MHB 151 and 161 on the shock strut connecting rod of the main landing gear of aircraft with serial numbers specified in AI Service Bulletins A300-32-096, Revision 4, and A300-32-096, Revision 3, both dated September 17, 1982, in accordance with the instructions of MHB Service Bulletins 470-32-039 and 470-32-040, Revision 1, both dated October 31, 1980, prior to the accumulation of 12,000 landings.

E. Incorporate modification MHB 59 on the brace assembly actuating cylinder of the main landing gear of aircraft with serial numbers specified in AI Service Bulletin A300-32-036, Revision 2, dated September 17, 1982, in accordance with the instructions of MHB Service Bulletin 470-32-031, dated January 8, 1978, prior to the accumulation of 17,500 landings.

F. Replace the actuating cylinder piston of the nose landing gear of aircraft with serial numbers specified in AI Service Bulletin A300-32-904, Revision 5, dated September 17, 1982, in accordance with the instructions of MHB Service Bulletin 470-32-033, dated January 9, 1978, prior to the accumulation of 14,000 landings.

G. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

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

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

This amendment becomes effective July 7, 1983.

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

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

Issued in Seattle, Washington on June 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-17194 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-CE-55-AD; Amendment 39-4669]

Airworthiness Directives; Cessna Model 441 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Model 441 airplanes which requires inspection and, if necessary, repositioning of the dual battery switches to ensure each switch controls the battery designated by the panel markings. Incorrect wiring of battery switches has been reported, which could negate pilot action to control over-temperature and a thermal runaway of the nickel-cadmium battery. This action will reposition the battery switches so they are controlling the battery designated by the panel marking and enable the pilot to control thermal runaway by ensuring the battery giving the over-temperature indication is disconnected when the pilot moves its respective master switch to "off".

DATES: Effective date: June 28, 1983. *Compliance:* Within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Information Letter PJ83-9, Revision 1 dated June 3, 1983, applicable to this AD may be obtained from Cessna Aircraft Company, P.O. Box 12730, Wichita, Kansas 67277. 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: Ralph Rissmiller, Aerospace Engineer, Systems and Equipment Branch, ACE-130W, Federal Aviation Administration, Central Region, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 269-7008.

SUPPLEMENTARY INFORMATION: Reports of transposed wiring on the No. 1 and No. 2 battery switches have been reported on the affected Cessna Model airplanes. This condition results in the No. 1 switch controlling the No. 2 battery and the No. 2 switch controlling the No. 1 battery. If not corrected it will negate and defeat pilot action to control a nickel-cadmium battery over-temperature by causing the pilot to disconnect the correctly functioning battery instead of the battery indicating an over-temperature as intended. This could result in a continuation of the over-temperature condition and a thermal runaway followed by battery case rupture and fire. The manufacturer has developed an inspection and modification that identifies and, if necessary, corrects this condition by repositioning the battery switches so they control the battery designated by the panel marking. Instructions and the manufacturer's recommendation that this inspection/modification be incorporated on in-service airplanes are contained in Cessna Service Information Letter PJ83-9, Revision 1 dated June 3, 1983.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring inspection

and, if necessary, modification of Cessna Model 441 airplanes in accordance with the above Cessna Service Information Letter. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Cessna: Applies to Model 441, S/N 441–0173 through 441–0311 and 441–0001 through 441–0172 incorporating Service Kit SK441–37, airplanes certificated in any category. (Airplanes incorporating SK441–37 Revision A or later revisions are not affected).

Compliance: Required within the next 50 hours time-in service after the effective date of this AD, unless already accomplished. To detect and correct a possible error in battery switch wiring which may contribute to thermal runaway of the nickel-cadmium batteries, accomplish the following:

(a) Inspect and, if necessary, prior to further flight modify the dual battery switch installation as specified in Cessna Service Information Letter PJ83–9, dated April 22, 1983 or Revisions 1 dated June 3, 1983.

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

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 269–7000.

This amendment becomes effective on June 28, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 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 requied). 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 June 13, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-17192 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM81-7-001; Order No. 202-C]

Exemption From the Licensing Requirements of Part 1 of the Federal Power Act of Certain Categories of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued: June 15, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Staying Further Application of Order No. 202 Pending Reconsideration of the Final Rule.

SUMMARY: The Commission requested from the U.S. Circuit Court of Appeals for the District of Columbia an opportunity to review its final rule exempting certain categories of hydroelectric power projects from licensing under the Federal Power Act. The court has remanded the rule. The Commission stays the effect of those rules (18 CFR 4.109–4.113) until the reconsideration is completed.

DATE: The effective date is stayed as of June 15, 1983 until further notice by the Commission.

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

SUPPLEMENTARY INFORMATION:

In the matter of exemption from the licensing requirements of Part 1 of the Federal Power Act of certain categories of small hydroelectric power projects with an installed capacity of 5 megawatts or less; Order Staying Further Application of Order No. 202 Pending Reconsideration of the Final Rule.

Issued: June 15, 1983.

On April 18, 1983, the Commission requested by motion that the United States Circuit Court of Appeals for the District of Columbia remand for further consideration the Commission's final rule promulgated in this docket under Order No. 202.[1] The rule, which was appealed to that court in *National Wildlife Federation et al.* v. *Federal Energy Regulatory Commission* (D.C. Cir. No. 82–2434), exempts two categories of hydroelectric power projects from the licensing requirements of the Federal Power Act, subject to terms and conditions. Pursuant to the Commission's Motion, the court remanded the record in the case on May 20, 1983, to afford the Commission an opportunity to reconsider the categorical exemption rule.

The Commission believes that issues raised on appeal warrant a reexamination of the nature, application, and usefulness of the procedures established by Order No. 202. Therefore, effective on the date on which this order is issued and until the Commission indicates otherwise, the Commission stays further application of the rule and will not exempt from licensing under 18 CFR 4.109–4.113 [2] any small hydroelectric power project not previously exempted under those provisions.[3]

Persons whose projects would qualify for exemption under either category described in § 4.109 are directed to the case-specific exemption procedures set forth in 18 CFR 4.103–4.108.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 14—[AMENDED]

18 CFR 14.109–14.113 are stayed as of June 15, 1983 until further notice.

[FR Doc. 83-16749 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Issued January 19, 1982, 47 FR 4.232 (January 28, 1982) (codified at 18 CFR 4.109–4.113 (1983)).

[2] Under these procedures, eligible projects are exempted by operation of the rule, effective 30 days after the Commission receives a notice of exemption from licensing. (18 CFR 4.109(c))

[3] By staying the rule, the Commission intends that any notice of exemption filed but not effective on the date of this order will not become effective and any such notice subsequently tendered will not be accepted for filing or docketed. The Commission in effect reverses its Order No. 202–A which denied a stay. 47 FR 32.069 (July 26, 1982).

18 CFR Part 292

[Docket No. PL83-4-000]

Policy Statement Regarding the Commission's Enforcement Role Under Section 210 of the Public Utility Regulatory Policies Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Statement of policy.

SUMMARY: In order to clarify the Commission's position regarding its enforcement role under Section 210 of the Public Utilities Regulatory Act of 1978 (PURPA), the Commission is issuing a statement of policy which defines its enforcement authority and its relationship to state judicial enforcement authority. This policy statement represents the Commission's views of its role in enforcing the provisions of Section 210 of PURPA which requires the Commission to promulgate rules to encourage the development of cogeneration and small power production facilities. The statement explains the Commission's position with regard to its enforcement of those PURPA provisions which require state regulatory authorities and non-regulated electric utilities to implement those rules which are promulgated by the Commission. The statement of policy addresses these implementation procedures and identifies some of the major causes of action which may arise under Section 210 of PURPA. This statement does not constitute a change in Commission policy but is intended to have the effect of further informing the public of the Commission's view regarding its primary role in the statutory scheme of review and enforcement of the provisions of Section 210 of PURPA.

DATE: The policy statement was issued on May 31, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8400.

SUPPLEMENTARY INFORMATION:

In the matter of: policy statement regarding the Commission's enforcement role under Section 210 of the Public Utility Regulatory Policies Act of 1978; Docket No. PL83-4-000; statement of policy.

Issued May 31, 1983.

In this document, the Commission is defining the role it intends to assume in enforcing the provisions of section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and defining the relationship of its enforcement authority to State judicial enforcement authority. The purpose of this document is to clarify our view of our appropriate place in an apparently ambiguous statutory enforcement scheme and to inform affected persons of the forums available if the PURPA requirements are not fulfilled. This documents does not constitute a change in policy or a determination on the merits of any case.

Background

Under section 210 of PURPA, the Commission is required to promulgate rules which encourage the development of cogeneration and small power production. Among other things, the Commission's rules are to require electric utilities to purchase power from, and sell power to, facilities which qualify as cogeneration or small power production facilities under section 201 of PURPA. The Commission is also authorized to exempt certain qualifying cogeneration and small power production facilities from the provisions of the Federal Power Act, the Public Utility Holding Company Act of 1935, and certain State laws. The Commission's regulations promulgated under section 201 and 210 of PURPA are codified at 18 CFR Part 292.

Under section 210(f) of PURPA, State regulatory authorities and nonregulated electric utilities are required to implement the Commission's rules decribed above. The Commission has indicated that the obligation to implement section 210 rules is a continuing obligation. This requirement may be fulfilled either: (1) Through the enactment of laws or regulations at the State level; (2) by application on a case-by-case basis by State regulatory authority, or nonregulated utility, of the rules adopted by the Commission; or, (3) by any other action reasonably designed to implement the Commission's rules.

Section 210 (g) and (h) of PURPA provide judicial review and enforcement procedures and Commission enforcement procedures respectively. Generally, these review and enforcement mechanisms are available to ensure that State regulatory authorities and nonregulated electric utilities undertake implementation of the Commission regulations.

Section 210(g)(1) of PURPA provides for judicial review, generally to be pursued in a State court forum,[1] respecting any proceeding conducted by a State regulatory authority or nonregulated electric utility for the purpose of implementing the requirements of section 210(a) of PURPA. Section 210(g)(2) authorizes any person to bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator, to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to section 210(f).

Section 210(h)(1) of PURPA grants the Commission certain enforcement authority with regard to those rules promulgated under section 210(a) which constitute "operations" under Part II of the Federal Power Act. As will be discussed more fully below, this authority applies only in limited circumstances. Section 210(h)(2) of PURPA authorizes the Commission to undertake an enforcement action to require a State regulatory authority or nonregulated electric utility to implement the Commission's regulations. As an imporant adjunct to this enforcement authority, section 210(h)(2) also authorizes certain private enforcement actions for the purpose of compelling implementation.

The Commission has previously addressed these review and enforcement provisions in the preamble to Order 69.[2] This policy statement is

---

[1] Section 210(g) of PURPA states that judicial review and enforcemet is obtained under the same requirements and in the same manner that an action would be brought under section 123 of PURPA.

Section 123(c)(1) of PURPA provides that judicial review and enforcement of determinations made by State regulatory authorities and nonregulated electric utilities may be obtained in the appropriate State court. Under section 123(c)(2) of PURPA, review of determinations made by a Federal agency may be obtained in the appropriate Federal court.

[2] Docket No. RM79-55, "Small Power Production and Cogeneration Facilities; Regulation Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978," 45 FR 12214 (Feb. 25, 1980). (Hereinafter, Order 69.) The Commission stated that:

Section 210(g) of PURPA provides one of the means of obtaining judicial review of a proceeding conducted by a State regulatory authority or nonregulated utility for purposes of implementing the Commission's rules under section 210***. This means that persons can bring an action in State court to require the State regulatory authorities or nonregulated utilities to implement these regulations.

The Commission believes that review and enforcement of implementation under section 210 of PURPA can consist not only of review and enforcement as to whether the State regulatory authority or nonregulated electric utility has conducted the intital implementation properly, namely, put into effect regulations implementing section 210 rules or procedures for that implementation, after notice and an opportuntiy for a hearing. It can also consist of review and enforcement of the application by a State regulatory authority or nonregulated electric utility, on a case-by-case basis, of its regulations or of any other provision it may have adopted to implement the Commission's rules under section 210.

Section 210(h)(2)(A) of PURPA states that the Commission may enforce the implementation of regulations under section 210(f). The Congress has provided not only for private causes of action in

intended as a supplement to that discussion. It will identify some of the major causes of action which may arise under section 210 of PURPA and discuss the Commission's view of the forums in which the variety of actions should be pursued. This list is not intended to be exhaustive, and the Commission will entertain further inquiries on a case-by-case basis.

The Commission does not intend for this statement to have any effect other than to further inform the public of our views and the course we intend to follow in future proceedings. This statement has no legal effect, is not a rule or a binding norm, and imposes no rights or obligations. Therefore, as these issues arise in future proceedings the validity and application of the policies enunciated herein may be subject to further consideration.

Obligation to Commence Implementation

Under section 210(f) of PURPA, State regulatory authorities and nonregulated electric utilities are required to implement regulations promulgated by this Commission under 210(a) of PURPA. Under section 210(h)(2)(A) the Commission has the authority to require the commencement of implementation under subsection (f) by any State regulatory authority or nonregulated electric utility. Moreover, the Commission's authority under this subsection extends to situations where State regulatory authorities or nonregulated electric utilities are alleged to have completed the implementation process, but have promulgated regulations which are inconsistent with or contrary to the Commission's regulations. Thus, for example, an allegation that a State regulatory authority has promulgated regulations which include a purchase rate standard contrary to existing Commission regulations would properly lie either before this Commission or before a judicial forum of proper jurisdiction.[3]

As we have already noted,[4] the Commission believes that its jurisdiction to review and enforce the section 210(f) implementation requirement (i.e. the requirement that State regulatory authorities and nonregulated electric utilities promulgate rules consistent with the requirements established by this Commission under section 210(a) of PURPA) is not exclusive. In fact, we would anticipate that generally proceedings would be initiated at the State level.

The Commission may undertake an enforcement action either on its own motion or upon petition by an electric utility, qualifying cogenerator, or qualifying small power producer. If the Commission chooses to undertake an action to require the commencement of implementation, both State regulatory authorities and nonregulated electric utilities are to be treated as persons under the Federal Power Act. The Commission's regulations establishing the implementation requirement of section 210(f) of PURPA [5] will be treated as rules under the Federal Power Act.

The Commission is not required to undertake an enforcement action described above. If the Commission does not initiate an enforcement action by notice within 60 days after receipt of a petition from an electric utility, qualifying cogenerator, or qualifying small power producer, the petitioner may bring an action in the appropriate United States district court. We anticipate that such an enforcement action would be an investigation to determine whether there are grounds for the Commission to seek court enforcement. The Commission is entitled to intervene as a matter of right in any private enforcement action under this section.

Implementation Procedues

The implementation provisions of section 210(f) of PURPA contain certain statutory procedural requirements—*viz.*, notice and an opportunity for public hearing. The Commission has the authority under section 210(h)(2)(A) of PURPA to enforce these statutory procedural requirements. Thus, a person alleging that a State regulatory authority or nonregulated electric utility has not issued notice or offered an opportunity for public hearing prior to promulgating regulations under section 210(f) of PURPA may petition the Commission to seek enforcement of these requirements. For purposes of any such enforcement action, the Commission's regulations implementing these procedural requirements will be treated as rules under the Federal Power Act.

The Commission notes that its enforcement jurisdiction in this regard is not exclusive. Section 210(g)(1) provides that any person may seek judicial review of any proceeding conducted by a State regulatory authority or nonregulated electric utility without petitioning this Commission. This provision appears to include procedural as well as substantive judicial review. Moreover, procedural challenges may be raised independently under applicable provisions of State law. Indeed, the Commission's authority to enforce PURPA procedural requirements is limited to those circumstances where an allegation is made that a State regulatory authority or nonregulated electric utility has failed to provide notice or an opportunity for public hearing as required by section 210(f). All other procedural challenges should be directly addressed to the proper judicial forum, rather than to this Commission.

Application of State Regulatory Authority or Nonregulated Electric Utility Established Rules

The Commission perceives that its primary role in the statutory scheme of review and enforcement is to ensure that the State regulatory authorities and nonregulated electric utilities implement regulations under section 210(f) which are consistent with the regulations established by the Commission under section 210(a) of PURPA. However, once the State regulatory authorities and nonregulated electric utilities have appropriately implemented the Commission's regulations, the Commission's role is limited regarding questions of the proper application of these rules on a case-by-case basis.[6]

Section 210(g)(2) states that "any person (including the Secretary [of Energy]) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f)." This subsection provides the primary enforcement authority by which an aggrieved person may challenge the *application* of a rule or rules promulgated by a State regulatory authority or nonregulated electric utility.

The following are examples of causes of action which may arise under section 210(g)(2) of PURPA. Assume that a State regulatory authority has promulgated regulations under section 210(f) of PURPA which require electric utilities and qualifying facilities to negotiate a rate for purchase. The underlying State-established regulation is not at issue but, rather, a qualifying facility alleges that a particular electric utility, subject

State courts to obtain judicial review and enforcement of the implementation of the Commission's rules under section 210, but also provided that the Commission may serve as a forum for review and enforcement of the implementation of this program.

[3] *Id.* at 12231.

[4] *See* note 2, *supra.*

[5] *Id.*

[5] 18 CFR 292.401.

[6] In fact, the only area in which the Commission may get involved in questions regarding the application of rules is with regard to 30 to 80 megawatt small power production facilities. See discussion, *infra.*

to the State regulatory authority's jurisdiction, refuses to negotiate. This allegation involves the application of a State-established rule and would properly lie before a State judicial forum of competent jurisdiction.

Similarly, where a nonregulated electric utility has promulgated rules appropriately implementing this Commission's regulations, and a qualifying facility alleges that a contract offered to it by the nonregulated utility contains unreasonable interconnection requirements, for example, this allegation is one which is properly raised under section 210(g)(2) before a State judicial forum, and not before this Commission.[7]

Exception for 30 to 80 Megawatt Small Power Production Facilities

The review and enforcement scheme described above contains an exception with regard to certain qualifying small power production facilities. Section 210(h)(1) of PURPA gives the Commission exclusive enforcement authority with regard to any rules prescribed by the Commission under section 210(a) of PURPA "with respect to any operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under Part II of the Federal Power Act." Pursuant to section 210(e) of PURPA, the Commission has granted liberal exemptions for all eligible qualifying facilities from Part II of the Federal Power Act.[8] However, section 210(e)(2) of PURPA prohibits the Commission from exempting small power production facilities between 30 and 80 megawatts capacity, other than geothermal facilities, from the provisions of the Federal Power Act. The sales of power in interstate commerce by such facilities would, therefore, be an "operation" which is subject to the Commission's jurisdiction under Part II of the Federal Power Act.

Under Part II of the Federal Power Act, the Commission regulates, *inter alia*, sales of electric power in interstate commerce. The Commission therefore has authority under the Federal Power Act to establish the rate for sale by such a facility.[9] Thus, the Commission may require that the rate for purchase by an electric utility from such a qualifying facility be consistent with the Commission-established rate.

The Commission has determined that State-established rates which are consistent with the Commission's regulations will generally be accepted as the "just and reasonable" rate for purchases by electric utilities from Federal Power Act jurisdictional qualifying facilities under section 205 of the Federal Power Act.[10]

Conclusion

The above discussion represents the Commission's considered, but informal, position regarding its role under the review and enforcement mechanisms of section 210 of PURPA. The Commission is required to promulgate rules to encourage the development of cogeneration and small power production which the State regulatory authorities and nonregulated electric utilities are required to implement these rules. The State regulatory authorities and nonregulated electric utilities are required to implement the Commission's regulations. The Commission's regulations allow the States and nonregulated utilities a wide degree of latitude in establishing an implementation plan. Such latitude is necessary in order for implementation to accommodate local conditions and concerns, so long as the final plan is consistent with statutory requirements.

With regard to review and enforcement, the Commission's role is generally limited to ensuring that the State regulatory authority—or nonregulated electric utility—established implementation plan is consistent with section 210 of PURPA and with the Commission's regulations. Once this is ensured, the State judicial forums are available to ensure that electric utilities and qualifying facilities are dealing in good faith and in a manner consistent with locally-established regulation.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-15139 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

---

[7] The Commission recognizes that nonregulated electric utilities are required to both implement the Commission's regulations and then comply with these self-established regulations. While this situation may seem anomalous, the Commission believes it appropriate to treat the nonregulated electric utility's regulatory function separately from its obligations as an electric utility. Thus, a challenge regarding the regulatory function of such an entity (e.g. that the nonregulated electric utility has not commenced implementation) would properly lie before this Commission under section 210(h) whereas a challenge regarding the application of regulations would not lie before this Commission.

[8] 18 CFR 292.601, 292.602 (1982).

[9] The Commission notes that sales by electric utilities to qualifying facilities are retail sales which are not "operations" under the Federal Power Act and are not, therefore, subject to Commission enforcement jurisdiction. Similarly, the interconnection requirement established in 18 CFR 292.303(c) is not an "operation" under the Federal Power Act. *See American Electric Power Service Corp.* v. *F.E.R.C.*, 675 F. 2d 1226 (D.C. Cir. 1982) *reversed and remanded* —— *U.S.* —— *(1983).*

[10] *See Resources Recovery (Dade County), Inc.*, Docket Nos. ER82-225-000, *et seq.*, orders issued March 12, May 24, and August 3, 1982; *Wheelabrator Frye, Inc.*, Docket Nos. EL82-7-000 order issued December 23, 1982; and, *Energy Conversions of America, Inc.*, Docket No. ER82-576-000, order issued December 23, 1982.

---

18 CFR Part 385

[Docket No. RM83-64-000; Order No. 312]

Amendment to Notice Procedures and Protest and Intervention Time Limits of Oil Pipeline Tariff Filings

Issued: June 20, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its Rules of Practice and Procedure, 18 CFR 385.1401, 385.1402, 385.1403, to require oil pipelines to update on an annual basis, their subscriber lists of persons who are to receive notice of the oil pipeline's tariff filings, and to prescribe time limits for filing protests and interventions to oil pipeline tariff filings. The effect of these amendments will be to ensure that all persons primarily affected by oil pipeline tariff filings are given an opportunity to obtain notice of tariff filings, and to improve the efficient evaluation and sound administration of protests and interventions related to oil pipeline tariff filings.

EFFECTIVE DATE: § 385.1401 and § 385.1403 will become effective July 27, 1983. The Commission will publish the effective date of § 385.1402 when it receives OMB's control number.

FOR FURTHER INFORMATION CONTACT: Karen Hurwitz, Office of the General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is adding three rules to Subpart N of its Rules of Practice and Procedure, 47 FR 19,014 (1982) (to be codifed at 18 CFR Part 385, Subpart N), that require oil pipelines to update, on an annual basis, their subscriber lists of persons who are to receive the oil pipeline's tariff filings, and to adopt time limits for filing protests and interventions to oil pipeline tariff filings. New Rule 1401 indicates that subpart N applies only to oil pipeline proceedings under the

Commission's jurisdiction. New Rule 1402 requires oil pipelines to update their subscriber lists on an annual basis to ensure that notice will be given to all persons wanting to be notified of tariff filings. New Rule 1403 requires that protests and interventions to oil pipeline tariff filings be filed 12 days before the proposed effective date for 30-day notice filings and 5 days before the proposed effective date for 10-day notice filings.

I. Background

Jurisdiction over the establishment of rates or charges for the transportation of oil by pipeline was transferred from the Interstate Commerce Commission (ICC) to the Commission under the Department of Energy Organization Act (DOE Act) §§ 306, 402(b), 42 U.S.C. 7155 and 7172(b) (1976) and Exec. Order No. 12,009, 42 FR 46,267 (1977). Section 705(a) of the DOE Act provides that the ICC's rules and regulations on October 1, 1977, relating to functions transferred to the Commission, shall continue in effect until modified by the Commission. The Commission itself has reiterated that ICC rules and regulations relating to the Commission's jurisdiction over oil pipelines should remain in effect until modified by the Commission.[1]

II. Provisions of the Final Rule

A. Notice Procedures

When an oil pipeline files a tariff filing with the Commission, it is required to send notice of the tariff filing to its "subscribers."[2] Such action constitutes actual notice.[3] Section 1300.30 further requires that the oil pipeline certify to the Commission that it has transmitted a copy of its tariff filing to each of its subscribers.

However, service of tariff filings on subscribers alone may not be sufficient to alert all persons that may have an interest in the tariff filing. Oil pipeline shippers, *i.e.*, entities that transport oil through the pipeline, may or may not be "subscribers" as defined in § 1300.30(g). These shippers clearly have a direct interest in oil pipeline tariff filings, and thus should also have a full and fair opportunity to indicate their desire to be notified.

The Commission is adding new Rule 1402 to its Rules of Practice and Procedure, 47 FR 19,014 (1982) (to be codified at 18 CFR 385.1402), to require oil pipelines to inquire annually, in writing, whether their current subscribers and all persons who have received transportation services from the pipeline during the preceding 12 months, want to be included on the subscriber list for the coming year. The subscriber or other person will be required to respond, in writing, within 30 days of receipt of the inquiry if it wants to be on the updated subscriber list. Such an amendment will ensure that all persons directly affected by the tariff filings have an opportunity to become subscribers, and thus be notified of tariff filings.

B. Time Limits For Filing Protests and Interventions

On August 26, 1982, the Commission's revised Rules of Practice and Procedure became effective.[4] Upon the adoption of those Rules, the Commission discontinued use of the procedural regulations of the ICC, 49 CFR Part 1100 (1977), for oil pipeline filings and proceedings, except for *ex parte* rules and modified procedures.[5] The Commission's revised Rules of Practice and Procedure do not include a time limit for filing protests or interventions to oil pipeline tariff filings. While Rule 210(a) states "when the Secretary gives notice of tariff or rate filings . . ." and Rule 210(b) states that such notice will "establish the dates for filing interventions and profests," the Secretary does not, in practice, notice oil pipeline tariff filings and, therefore, does not establish the dates for filing protests and interventions to such filings. Currently, protests are accepted up to the last day before a tariff becomes effective.

The absence of a time limit for protests and interventions has hindered the efficient administration of the Commission's jurisdiction over oil pipelines. Further, oil pipelines and shippers may not know if protests or interventions are filed until the last minute. A time limit is necessary to give greater procedural regularity to the protest and intervention process. New Rule 1403 is added which adopts time limits for filing protests and interventions which are similar to the time limits for protests to oil pipeline tariff filings that were customary under ICC regulations, 49 CFR 1100.40 (1977).[6] Rule 1403 will now require that protests and interventions to 30-day notice filings be filed no later than 12 days before the proposed effective date of the tariff filing and that protests and interventions to 10-day notice filings be filed no later than 5 days before the proposed effective date of the tariff filing.

III. Paperwork Reduction Act Statement and Effective Date

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (Supp. IV 1980), and the Office of Management and Budget's (OMB) regulations, 48 FR 13666, 13694 (1983) (to be codified at 5 CFR Part 1320), require that OMB approve certain information collection requirements imposed by agency rule. Rules 1401 and 1403 are not information collection requirements within the meaning of the PRA and OMB's regulations. Rule 1402 does, however, fall within these definitions. The informtion collection provisions now in 49 CFR 1300.30 (1977), which relate to Rule 1402, have received OMB approval (Control No. 19020089). The information collection provisions in Rule 1402 are being submitted to OMB for its approval. Interested persons can obtain information on these information collection provisions by contacting the Office of the General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory, Commission, RC–421, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Attention: Karen Hurwitz) (202) 357–8033. Comments on the information collection provision can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

---

[1] Docket No. RM78–1–000, Order No. 1, issued October 1, 1977, 42 FR 55,450 (1977). In this regard, Rule 1402 contains a new, supplemental requirement for oil pipelines which does not modify or otherwise affect 49 CFR 1300.30 (1977), the rule that now requires oil pipelines to notify their subscribers of all tariff filings. Section 1300.30, therefore, will remain in effect.

[2] 49 CFR 1300.30 (1977). Section 1300.30(g) defines "subscriber" as follows:

(g) As used herein, the term "subscriber" means a party who voluntarily or upon reasonable request is furnished at least one copy of a particular tariff and amendments thereto (including reissues thereof) by the publishing carrier or agent. The term does not, however, pertain to requests for a copy or copies of a tariff without a request for future amendments thereto.

[3] 47 FR 19,014 (1982) (to be codifed at 18 CFR 385.2009).

[4] Docket No. RM78–22–000, Order No. 225, issued April 28, 1982, 47 FR 19,014 (1982).

[5] One of the ICC regulations which the Commission did not adopt in the revised Rules of Practice and Procedure is 49 CFR 1100.40 (1977), which states that protests to oil pipeline tariff filings must be filed no later than 12 days before the effective date of the filing in the case of a 30-day notice filing and no later than 5 days before the effective date in the case of a 10-day notice filing. The 30-day notice period is based on 49 CFR 1300.14 (1977), and the 10-day notice period on 49 CFR 1300.57 and 1300.58 (1977).

[6] The intervention rule for oil pipelines under the ICC rules of practice and procedure was 49 CFR 1100.70 (1977). That rule stated that a petition for leave to intervene should be filed prior to or at the time the proceeding was called for hearing; filings after that point were required to show good cause. Since the current practice in other substantive areas under the Commission's jurisdiction is to set time limits for filing interventions and protests, and because the adoption of time limits would aid staff in efficiently administering oil pipeline tariff proceedings, the Commission has decided to adopt one set of time limits to apply to both protests and interventions to oil pipeline tariff filings.

This final rule amends regulations involving procedure and practice before the Commission. The Commission, therefore, finds that prior notice and opportunity for public comment are unnecessary under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(A) and (B).

In accordance with section 553(d) of the APA, Rules 1401 and 1403 set forth below become effective July 27, 1983. Rule 1402 will become effective when the Commission publishes notice of OMB's approval and control number under the PRA. If OMB's approval and control number are given in less than thirty days, then the Commission's notice will make the rule effective on July 27, 1983. If OMB's approval and control number are given after 30 days, then the Commission's notice will state that the rule is effective as of the date of the publication of the notice.

List of Subjects in 18 CFR Part 385

Administrative practice and procedures.

(Administrative Procedure Act, 5 U.S.C. 551–557; Department of Energy Organization Act, 42 U.S.C. 7101–7352, Exec. Order No. 12,009, 3 CFR 142 (1978); Interstate Commerce Act, 49 U.S.C. 1, *et seq.*)

In consideration of the foregoing, the Commission amends Subchapter X, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 385 is amended by adding Subpart N consisting of §§ 385.1401–385.1403 to read as follows:

§ 385.1401 Applicability (Rule 1401).

(a) This subpart applies to oil pipeline proceedings.

(b) If any provision of this subpart is inconsistent with any provision of another subpart of this Part, the provision of this subpart governs and the provision of the other subpart is inapplicable to the extent of the inconsistency.

§ 385.1402 Subscriber lists (Rule 1402).

(a) Not later than December 31 of each year, an oil pipeline must request, in writing, each of its subscribers and each person who has been served under any of its tariffs during the preceding twelve months to notify the pipeline as to whether the subscriber or person wishes to be included on the subscriber list for any of the oil pipeline's integrated pipeline systems.

(b) The oil pipeline must immediately add to the specified subscriber list any subscriber or person which responds in writing within 30 days of receipt of the oil pipeline request and which indicates in that response that it wishes to be included on the specified list.

§ 385.1403 Dates for filing protests and interventions (Rule 1403).

A protest or intervention to an oil pipeline tariff filing must be filed with the Commission:

(a) 12 days before the proposed effective date of the tariff filing, if the tariff filing requires a 30-day notice, or

(b) 5 days before the proposed effective date of the tariff filing, if the tariff filing requires a 10-day notice.

2. The entry for Subparts N through R in the Table of Contents for Part 385 [now reserved] is revised to read as follows:

PART 385—RULES OF PRACTICE AND PROCEDURE

* * * * *

Subpart N—Oil Pipeline Proceedings

Sec.

385.1401 Applicability (Rule 1401).
385.1402 Subscriber lists (Rule 1402).
385.1403 Dates for filing protests and interventions (Rule 1403).

Subparts O through R [Reserved]

* * * * *

[FR Doc. 83-17136 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 115 and 117

[CGD 83-042]

Drawbridge Operation Regulations; Correction

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule, correction.

SUMMARY: This document corrects three technical errors in two documents, published in the **Federal Register** on December 3, 1981 (46 FR 58665) relating to opening signals for drawbridges and December 2, 1982 (47 FR 54299) relating to regulations governing drawbridge operations, bridge permits, and penalties.

FOR FURTHER INFORMATION CONTACT: Michael N. Mervin, (202) 426–1534.

Accordingly, the following corrections are made:

1. In the issue of Thursday, December 2, 1982, on p. 54299, third column, item 4., is corrected to read:

"In § 115.50, by revising the heading and paragraph (b) and adding a new paragraph (c) to read as follows:"

2. On p. 54300, in the first column, at the top, at the end of the first incomplete paragraph (paragraph (c) of § 115.50), add:

"* * * * *"

3. In the issue of Thursday, December 3, 1981, on page 58671, first column, delete the whole item 26.

Dated: June 21, 1983.

C. M. Holland,

Captain, USCG, Executive Secretary, Marine Safety Council, Office of the Commandant.

[FR Doc. 83-17289 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2317-6]

Approval and Promulgation of Implementation Plans; Manchester, New Hampshire, 1982 Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. The intended effect of these revisions is to control emissions of carbon monoxide (CO) in order to attain the primary carbon monoxide National Ambient Air Quality Standard by December 31, 1987 and to provide for reasonable further progress in the interim as required under Part D of the Clean Air Act Amendments of 1977.

EFFECTIVE DATE: June 27, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20408; and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Susan S. Hager, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On September 13, 1982 (47 FR 40185), EPA published a Notice of Proposed Rulemaking (NPR) for the Manchester, New Hampshire 1982 Carbon Monoxide Attainment Plan Revisions. The revisions and the rationale for EPA's proposed action are explained in that NPR and will not be restated here.

By letters dated October 5, 1982 and December 20, 1982, Dennis Lunderville, Technical Secretary of the New Hampshire Air Resources Commission, submitted for EPA approval the State-adopted carbon monoxide attainment plan revisions for the City of Manchester. The plan revisions fulfill the requirements of Part D of the Clean Air Act and demonstrate that CO standards will be achieved throughout the City by 1987. The State included supplemental material requested by EPA for the intersection of Bridge and Elm Streets. This location was the only site which required control measures in addition to the Federal Motor Vehicle Emissions Control Program in order to attain CO standards by 1987, and EPA asked that the following material be included in the final SIP to support the attainment demonstration:

1. Endorsement by the City of Manchester of the control measures to be implemented by the City,
2. Resource commitment, and
3. Additional information on the modeled attainment demonstration.

Each of these is discussed in greater detail below.

Endorsement by the City

The CO attainment plan for the City of Manchester calls for several traffic control measures to be implemented by the City. These are: (a) To increase the traffic signal cycle length, (b) the shift the proportion of green time to favor Bridge Street traffic, and (c) to provide right turn lanes on Elm Street. At the time the State proposed the plan, the Manchester Aldermanic Traffic Committee had not approved the measures, and, therefore, EPA had no assurance that the City was committed to implement the measures. In the NPR EPA asked that the final submittal include this commitment or a schedule for obtaining it.

The State has complied by submitting the following schedule:

Action	Completion date
Southern New Hampshire Planning Commission submits request for approval to Aldermanic Traffic Committee.	Sept. 1, 1982.
Approval of Aldermanic Traffic Committee obtained.	Nov. 1, 1982.
Implement measures	Apr. 1, 1983.

These actions have been completed. EPA finds that the schedule and Manchester's subsequent compliance with the schedule meet the requirements for plan submittal and is approving this portion of the SIP.

Resource Commitment

In the draft submittal, no explicit commitment of resources was made. The final SIP corrects this deficiency by explaining that the control measures will be carried out by the Manchester Traffic Department as part of its normal duties. No separate allocation of funds is necessary. Approval by the Aldermanic Traffic Committee will authorize the Traffic Department to proceed to implement the measures.

Attainment Demonstration

The proposed SIP presented a modeled demonstration of attainment based on a dispersion model consistent with EPA modeling guidelines and using current, valid data, including traffic and meteorological information. The modeled analysis, however, only projected ambient concentrations for future years, and did not include a modeled value for a year in which ambient monitored data were available. EPA asked that the base year concentration be modeled so that a comparison could be made of predicted versus measured concentrations of carbon monoxide. This comparison was submitted with the final SIP. As discussed in the technical support document, it shows that for base year 1980, the model adequately predicts peak observed concentrations. EPA is, therefore, approving this portion of the SIP.

Conclusion

EPA has reviewed the carbon monoxide attainment plan for Manchester, New Hampshire and finds that it meets the requirements of Part D of the Clean Air Act for 1982 plan revisions and of the EPA policy document, "State Implementation Plans; Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension", published on January 22, 1981 at 46 FR 7182.

Action

EPA is approving the Manchester, New Hampshire Carbon Monoxide Attainment Plan.

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

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

List of Subjects in 40 CFR Part 52

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

Authority: Section 110(a) and Section 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: May 16, 1983.

William D. Ruckelshaus,

Administrator.

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

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

Subpart EE—New Hampshire

PART 52—[AMENDED]

Section 52.1520, paragraph (c) is amended by adding paragraph (23) as follows:

§ 52.1520 Identification of Plan.

* * * * *

(c) * * *

(23) Carbon monoxide attainment plan revisions for the City of Manchester which meet the requirements of Part D of the Act for 1982 SIP revisions. The revisions were submitted on October 5, 1982 and December 20, 1982 by the New Hampshire Air Resources Agency.

[FR Doc. 83-17033 Filed 6-24-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Medicaid Program; Interest on Disputed Medicaid Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations clarify HCFA policies relating to disallowances of State claims for Federal matching of State Medicaid expenditures.

Before the enactment of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), States were permitted to retain, interest-free, the Federal matching funds for State Medicaid expenditures that had been disallowed until there was a final Federal determination under the administrative appeals process. If the

determination upheld part or all of the disallowance, the State returned only that amount and did not pay the Federal government any interest on the disallowed amounts.

Section 961(a) of the Omnibus Reconciliation Act of 1980 changed these procedures by giving the State the option of either returning the disallowed funds immediately to HCFA or of retaining the disallowed funds held by the State until there is a final determination. If the State chooses to retain the disallowed funds, it will be required to pay interest on any portion of the disallowance that is sustained on appeal.

The statute is self-implementing, and these regulations simply specify the procedures to be followed when a State chooses to retain the funds.

EFFECTIVE DATE: July 27, 1983.

FOR FURTHER INFORMATION CONTACT: Gilda Martin, (301) 597–1399.

SUPPLEMENTARY INFORMATION:

Background

In the Medicaid program, the Federal government shares with the States the cost of services furnished to beneficiaries. The Federal government's share is determined by a formula based on the State's per capita income with special provisions for administrative expenditures. (See section 1903 of the Social Security Act and 42 CFR 433.10 and 433.15.) To obtain the Federal government's share (which is called Federal financial participation, or FFP), each State requests from HCFA (the Federal agency that oversees the Medicaid program), on a quarterly basis, the amount the State estimates will be the FFP for the following fiscal quarter. On the basis of these estimates, we advance the funds by awarding a grant, and, after the end of the quarter, the State sends in a quarterly expenditure report that reflects the actual expenditures incurred by the State. We review the report and determine whether the State has claimed reimbursement for any expenditures that are not allowable.

If we determine that the State erroneously requested FFP on any of its claims, a notice of disallowance for those claims is issued. Under the procedures set forth in 45 CFR Part 16, States are entitled to appeal disallowances to the Department's Grant Appeals Board. At the point of disallowance, a claim may be "paid" or "unpaid". If the State does appeal, it retains the funds for claims that have been paid until the appeal is resolved. However, if we issue the notice of disallowance before we pay the State claim, we cannot pay the unapproved claim and we hold the funds during any subsequent appeal.

As a result of the review of the quarterly expenditure report, we may defer payment of a claim pending the State's submission of additional information and documentation to substantiate the allowability of the claim (45 CFR 201.15). If a claim is deferred, we deduct the amount of the claim from the State's next grant award. If we do not meet the time limits for review of a deferred claim, the State is paid the deferred amount in a subsequent grant and retains it, subject to a later determination concerning whether it should be disallowed. If, after review, we determine the claim is unallowable and we formally notify the State of the disallowance and of its appeal rights within the time limits specified in the deferral regulation (45 CFR 201.15), the deferred funds are held by us, rather than by the State, at the time of the disallowance.

Statutory Amendment

Section 961(a) of the Omnibus Reconciliation Act (Pub. L. 96–499) amended section 1903(d) of the Social Security Act by adding a new paragraph (5). This paragraph was then amended by section 2163 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Under the provisions of the law, a State that disagrees with HCFA's decision to disallow a claim, and that appeals the disallowance under 45 CFR Part 16, has the option of returning the disputed amount to HCFA or of retaining the appealed funds, as it does now, pending the final determination of the Grant Appeals Board. If the State chooses to retain the appealed funds and the Board's final determination upholds all or part of the disallowance, the State must pay interest on any funds it retained that the Board has ruled were properly disallowed. The interest is computed at the rate (determined by HCFA) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period for which the State owes the interest. The period over which interest may be charged begins on the date the amount was formally disallowed and ends on the date of the Board's final determination. Under the 1980 Act, this period was not to exceed 12 months for disallowances made before October 1, 1981. However, the limitation to the duration of the interest period was eliminated by section 2163 of the Omnibus Budget Reconciliation Act of 1981, which was effective August 13, 1981. Thus, an interest charge is limited to 12 months for any disallowance issued between the dates the 1980 and 1981 Acts became effective (December 5, 1980 through August 13, 1981). The law does not affect any disallowance, regardless of when it is made, for any services furnished before October 1, 1980.

A decision on an appealed disallowance may sometimes take up to two years. Although, in a majority of appeals, the State's position is not upheld and the State returns a substantial amount of money to HCFA, the procedure in use before the enactment of the 1980 Act allowed States to benefit, in effect, from an interest-free loan. During the appeals process, the Federal government lost the use of the funds and was required to borrow additional funds to meet its cash needs. The purpose of the statutory amendment is to save the Federal government the additional interest expense incurred during the administrative appeals process when the disallowance is upheld.

Provisions of the Regulations

On July 8, 1982, we published a notice of proposed rulemaking to implement the statute (47 FR 29275). In that document, we proposed regulations that would parallel the statute with clarifying or implementing policy as discussed below.

The proposal would have added a new section, § 433.38, Interest Charged on Disallowed Claims, to the Medicaid regulations. We included a cross-reference in the new section to 45 CFR Part 201, Subpart B, Review and Audits. That subpart contains the Department's rules on actions taken in disallowance situations in several Federal programs, including Medicaid.

A. Notice of State's Options

Under the proposed regulations, the State would have to take specific action if it wished to retain disallowed funds. The State would have 30 days from the date of receipt of the notice of disallowance (as established by a certified mail receipt) to notify the HCFA Regional Administrator in writing that it intends to retain the disallowed funds pending a decision on the State's appeal by the Grant Appeals Board. If the State did not notify the Regional Administrator that it wishes to retain the funds, we would recover the amount of payment in controversy in the next grant award issued after the 30 days. (We would allow time for a letter mailed near the end of the 30 days to reach us before recovering the money.)

B. Amount of Interest

The proposed regulations defined how the interest owed by the State would be calculated if the State had retained any funds that remained disallowed in the final determination.

To establish the interest rate, we proposed to total the bond equivalent rates of each weekly auction of 90-day Treasury bills during the period for which interest would be charged and divide the total by the number of rates considered. The bond equivalent rate is the true discount rate. (31 CFR Part 306, Appendix to subpart E.) The true discount rate is determined by:

(1) Subtracting the sale price of the bill from its face value to obtain the amount of discount;

(2) Dividing the amount of the discount by the number of days the bill is to run to obtain the amount of discount per day;

(3) Multiplying the amount of discount per day by the actual number of days in the year from date of issue (365 ordinarily, but 366 if February 29 falls within the year from the date of issue) to obtain the amount of discount per year; and

(4) Dividing the amount of discount per year by the sale price of the bill to obtain the true discount rate.

As indicated above, interest charges would begin on the date of the disallowance letter and end on the date of the Board's final determination. (However, consistent with the 1980 Act, the proposed regulations specified that we would not charge interest for more than 12 months for disallowances issued between October 1, 1980 and August 13, 1981, when the 1981 amendment to section 1903(d)(5) of the Social Security Act became effective.)

C. Limitations on Applicability

1. Any interest charged to a State under the proposed regulations was applied only to the amount of FFP disallowed for services furnished on or after October 1, 1980.

2. Funds retained by the Federal government because of a deferral were not subject to the provisions of the proposed regulations. That is, if we deferred a claim and later disallowed it within the time limits of 45 CFR 201.15, we would not transfer the funds in dispute to the State to hold during the appeals process. Since the State did not have the funds in its possession at the time of a timely disallowance following deferral, it could not "retain" them. Deferred claims that are disallowed, therefore, fell outside the scope of these proposed regulations because the State would not have possession of the disputed funds at the time the disallowance was made. As such, there would be nothing for the State to retain. We based this decision on the absence of any Congressional language indicating an intent to nullify the existing deferral process. Therefore, the proposed regulations excluded from coverage any claim that HCFA has deferred and disallowed in a timely fashion.

3. The date of the "final determination," which ends the interest period, would be the date of the decision (under 45 CFR 16.21) of the Grant Appeals Board on the claim in dispute; it did not include any judicial decisions. The final determination would be that of the Grant Appeals Board. The Conference Report accompanying the Reconciliation Act (H.R. Report No. 96-1479, 96th Cong., 2nd Sess. 152-153 (1980)) indicates that, although the House and Senate bills would have permitted States to retain disputed claims throughout all appeals, the Conference Committee agreed that section 961 gave the States the option to retain disputed funds only through completion of the administrative appeals process.

If the State were to withdraw its appeal to the Board on all or part of the disallowed claim, we proposed to charge the State interest on the withdrawn portion of the claim through the date on which the State notified HCFA in writing of the amount on which it was withdrawing the appeal. To do otherwise would nullify the intent of the law, as a State would be able to withdraw its appeal as late as a day before a decision sustaining a disallowance without paying any interest.

D. Procedures for Recovery of Retained Funds and Interest

If the Board's final determination upheld the disallowance and the State had retained the disallowed funds during the administrative appeals process, we proposed to offset, from the next Medicaid grant awarded to the State after the final determination, an amount equal to that specified in the final determination, plus interest on the amount disallowed.

We proposed that the grant award show the amount of FFP and interest deducted from the grant as calculated under the provisions of the proposed regulations.

Analysis and Response to Comments

We received 10 comments on the proposed regulations from seven commenters. The commenters consisted of five State agencies, one law firm representing eight States and a welfare organization, and a welfare agency.

1. *Basis and Scope: 42 CFR 433.38(a)(1) and (2).*—One commenter stated his belief that it was inappropriate and unnecessary for HCFA to define, in this regulation, the broader range of circumstances under which States may properly be in possession of funds at the time of a disallowance. He believed that our position, which excludes (from section 1903(d)(5) of the Act) funds that are deferred and disallowed within the time limits of 45 CFR 201.15 as well as other unpaid claims, conflicts with the statute.

We do not agree with this comment. While the law specifies that it applies to all cases in which the Secretary estimates there has been an overpayment, it also specifies limits to its own applicability. For example, the law does not apply to disallowances for services furnished before October 1, 1980. To explain why it does not apply to funds that are not physically in the hands of the State, we explained in the preamble to the proposed rule the disallowance/deferral process as implemented in the issuance of grant awards.

The statute gives the State the option to "retain" the amount in dispute. Under the statute, however, this option can only be exercised after there has been a disallowance. Since a deferral action—withholding of funds for a questionable claim—can only occur before a disallowance, the Secretary's authority to defer claims remains intact. Further, Congress did not address any alteration to the deferral process, either in the legislative history or the law itself. We concluded that Congress did not intend, by indirection, to overturn longstanding agency regulations.

Similarly, if a State appeals a claim that could not be paid because the State had been formally notified that the claim was disallowed before the issuance of a grant award approving payment of that claim, the statute does not give the State the option to have the funds paid to it.

2. *Basis and Scope: 42 CFR 433.38(a)(3).*—One commenter stated that the regulations should identify a procedure so that no disallowances for any services furnished before October 1, 1980 will be subject to the new regulations.

As the commenter noted, the proposed regulations stated that our policy (as required by statute) is to apply the procedure concerning charging of interest only to those disallowances for services furnished on or after October 1, 1980. It is not appropriate to include in

these regulations a procedure for identifying the period for which a disallowance is made. We do, however, include information in a disallowance notice when services furnished on or after October 1, 1980, are disallowed saying that the disallowances may be subject to an interest charge. If the disallowance is for services furnished both before and after the beginning of October 1980, we identify, as subject to interest, the dollar amount of the disallowance for retained funds for services furnished on or after October 1, 1980. This procedure allows the State an opportunity to verify that no interest will be charged on disallowances for services furnished before the effective date of the statute.

3. *Reversal of Election To Retain Funds: 42 CFR 433.38(b)(3).*—(a) One commenter stated that a State should be able to reverse its election to retain funds without withdrawing its appeal. The proposed regulations imply that a State that elects to retain disputed funds must do so until it loses or withdraws its appeal.

We agree with the commenter that allowing a State to return funds before the appeals process is completed would benefit both the State and HCFA. Therefore, we are amending the regulations to indicate that a State may return disputed funds before the appeals process is complete without withdrawing the appeal. If it loses its appeal before the Board, the State will have to pay interest on the funds for the time it did retain them. We will charge interest from the date of the disallowance notice through the date we receive written notice from the State that it no longer wishes to retain the funds.

Section 1903(d)(5) of the Act gives a State the option of retaining "the amount of Federal payment in controversy". In any disallowance, there is only one "amount" in controversy—that which is disallowed and which a State contests through an appeal to the Grant Appeals Board. Thus, at the time of a disallowance, the statute provides a State with the option of retaining (or returning) the entire amount of Federal payments that have been disallowed and which the State appeals. Similarly, a State that wishes to reverse its election to retain funds must return the entire amount in controversy. Just as the statute contemplates a single amount that a State has the option to retain or return at the outset of a disallowance, the statute does not contemplate a piecemeal treatment of the "amount" in controversy when a State considers the reversal of its election. Aside from the requirements of the statute, it is not practical to permit the State to reverse its election on only a portion of the funds. Identifying funds retained or recovered in relation to a Board decision that upholds a disallowance in part could produce differences of opinion regarding the funds on which to compute interest. In addition, the necessity of recalculating the already complex calculation of incentive rebates, as required by section 1903(t) of the Act, leads HCFA to conclude that a reversal of an election to retain appealed funds is administratively possible only for the entire amount in controversy.

Although a State may return funds under this provision after it had originally decided to retain them, we are not giving a State the option of having HCFA return funds to a State once the State has decided not to retain them. We maintain that the statute's use of the word "retain" means that the State will hold the funds continuously; once the funds are recovered by HCFA, the State has no option to have them paid again unless the disallowance decision is reversed on appeal.

We are making several clarifying changes to the proposed regulations because of the added provision allowing a State to return funds without withdrawing its appeal. We have rewritten paragraph (d)(1) so that it applies by cross-reference to any State decision to retain funds, rather than just decisions to retain funds until the Board issues a determination. We have deleted paragraph (d)(2), since decisions to withdraw an appeal are now covered in paragraph (d)(1). Paragraph (d)(3) has been redesignated as (d)(2). We are revising paragraph (e)(1) to show the beginning and ending dates for charging interest on funds for all three types of decisions.

We are also adding a subparagraph to paragraph (b) to make it clear that once a State elects to have HCFA recover the funds, it may not reverse its decision.

4. *Definition of Appeals Process: 42 CFR 433.38(b) (2) and (3).*—One commenter stated that the "final determination" to which the law refers is the result of any judicial appeals rather than just administrative appeals. The commenter did not agree with our belief that Congress' final version of the bill limited the definition of final determination to that handed down at the end of the administrative appeals process because if a court overturns an unfavorable Board decision, the State loses any interest it paid. The commenter further stated that even if we do not change the regulations to allow a State to retain funds through the judicial appeals process, the regulation should require HCFA to return any interest it collected from a State if a court overturns an unfavorable Board decision.

We do not agree that Congress intended that a State be permitted to retain funds through the judicial appeals process. Despite the fact that the House bill contemplated permitting the States to retain funds specifically through any judicial appeals and that the Conference Report considered the House and Senate bills regarding their scope as synonymous, the Conference Committee explicitly agreed that section 961 gave States the option to retain funds only through the administrative appeals procedure. In view of this unambiguous direction of the Conference Committee in rejecting the position first adopted by the House, we do not believe we should change the regulations as suggested by the commenter.

However, we do agree with the commenter that it is unlikely that Congress intended a State to pay interest to HCFA if it loses its Board appeal and then not recover the interest should it win subsequent judicial appeals. We are therefore amending the regulations to indicate that we will pay the State the principal plus any interest it paid us on the principal if a Board decision unfavorable to the State is subsequently overturned in the courts.

5. *State Procedures: 42 CFR 433.38(c)(2).*—One commenter stated that the period of time which a State has to decide whether to retain or return funds should be expanded from 30 to 90 days because of the in-depth review the State must give each claim in view of the high interest rates.

We do not agree with this comment. In making a decision regarding a time limit for a State to exercise its option to retain funds during an appeal, we considered various time periods. If a State decides to have HCFA recover funds during an appeal, it will have held funds interest-free during the period it has for making an election under section 1903(d)(5) of the Act, even if it ultimately loses its appeal before the Board. Therefore, in the interest of more prudent fiscal management, we would actually prefer a much shorter time limit than 30 days in which a State makes its election. However, since the State will be conducting a careful, in-depth review of the basis for the disallowance in order to decide whether to appeal, it is reasonable that the time period for a decision regarding the retention of disputed funds, and its interest charge consequences, should coincide with the

time limit for making a decision regarding appeal.

6. *Time Limit on Interest: 42 CFR 433.38(c)(3).*—One commenter noted that it was Congress' intent that the Secretary expedite the processing of State appeals after the notice of disallowance; the proposed regulations are silent on this subject.

In Pub. L. 96-499, Congress limited the collection of interest to a 12-month period following the disallowance notice with the intention that the Secretary expedite the appeals process. However, in section 2163 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), Congress eliminated the time period over which we could collect interest. More importantly, however, whatever time limits are placed on the collection of interest under section 1903(d)(5) of the Act would not dictate with any substance the pace of an administrative appeal of a disallowance. That pace is determined only in part by HCFA; it is equally determined by the State that is a party to the dispute and by the Grant Appeals Board. As the factors that might affect the speed of a Grant Appeals Board proceeding are far beyond the scope of section 1903(d)(5) of the Act, it would be not only inappropriate but unfounded to attempt to control the proceedings through these regulations.

The following comments and responses do not address actual regulation provisions that appeared in the proposed regulations.

7. *Effective Dates.*—One commenter stated that he believes the regulations should become effective upon publication of the final rule, and that HCFA should not attempt to enforce section 1903(d)(5) of the Act with respect to disallowances before that effective date. He supported his argument by stating that to his knowledge we have not implemented the statute and that we chose to publish a notice of proposed rulemaking rather than a final rule, although we stated the statute is self-implementing.

We agree that the clarifying procedures in these regulations should not become effective until the final rule is published and we are changing the effective date to 30 days after publication. As we noted in the notice of proposed rulemaking, however, the statute by its own terms is self-implementing, and, indeed, by the time the proposed rule was published we had already implemented the law in 32 instances. (We did this by notifying each affected State, in its notice of disallowance, of its options under the law regarding retention of the funds if it chose to appeal the disallowance.) We decided to publish a notice of proposed rulemaking rather than a final rule because we believed it appropriate to publish for comment clarifying procedures we wish to implement. Because the statute is self-implementing, there was not sufficient need to warrant publishing a final rule with comment period to implement these clarifying procedures.

8. *HCFA Payment of Interest.*—Four commenters stated that HCFA should pay interest to a State if the State returns disputed funds and wins its appeal before the Board. To do otherwise is inequitable and will encourage States to retain disallowed funds.

The law does not provide for HCFA to pay a State interest on disputed funds when the State has returned the funds to HCFA and has won its appeal. It was clearly not Congress' intention to allow or require HCFA to pay interest to a State. Both the Senate and House bills (Senate Committee Print 96-36, 96th Congress, 2d Session June 25, 1980, p. 43, and House Report No. 96-1167, 96th Congress, 2d Session, July 21, 1980, p. 90) preceding section 961(a) of Pub. L. 96-499 would have required HCFA to pay interest to a State if the State won its appeal after HCFA recovered disputed funds, but the law as enacted contained no such provision. Because the law does not provide for HCFA to pay interest, we cannot pay interest under the provisions of section 1903(d)(5) of the Act.

9. *Interest on Deferred Funds.*—One commenter stated that the regulations should clearly state whether a State may collect interest on funds for which HCFA has deferred payment under 45 CFR 201.15 and that HCFA subsequently pays to the State.

We do not agree with this comment. As stated in our response to the first comment, the law does not apply to deferred funds; our response to the eighth comment discusses how Congress rejected the idea of HCFA paying interest to a State. Thus, paying a State interest on deferred funds is a subject beyond the scope of these regulations.

10. *Interest Charged to Local Districts.*—One commenter stated that in cases where a State decides to retain disputed funds and loses its appeal before the Board, a portion of the interest charge would pass to local districts. The commenter wanted us to amend the regulations to specify that local districts will be held harmless for interest payments on disallowances that are sustained on appeal.

We do not agree with this comment. As is true for almost all elements of the Medicaid program, section 1903(d)(5) of the Act reflects the fact that the Federal government deals exclusively with the single State agency that is responsible for the administration of the Medicaid program. Section 1903(d)(5) of the Act speaks in terms of a State's potential liability to the Federal government for certain interest charges. How a State handles the sharing of costs and interest charges with local districts, however, is beyond the scope of section 1903(d)(5) and these regulations. As such, it would not be appropriate to address in this section how a State may or may not share interest costs with local districts.

Technical Changes

In the notice of proposed rulemaking, we inadvertently published two erroneous cross-references to Departmental regulations. The regulations have been recodified and we used old citations.

1. In the preamble, we referred to 45 CFR 16.10 as the regulations governing the date of Grant Appeals Board determinations. This reference should be 45 CFR 16.21. We have correctly stated the citation earlier in this document.

2. In the proposed 42 CFR 433.38(b)(1), we indicated that HCFA would charge interest when we have notified a State agency under 45 CFR 201.14 that a State claim for FFP is not allowable. The proper reference is 45 CFR 74.304 and the final regulations are changed accordingly.

We are also adding the phrase "in writing" to 42 CFR 433.38(c)(1) so that it is explicit that a State must notify HCFA that it wishes to retain the FFP. The proposed rule implied that the notification must be in writing, but since we are stating explicitly that a State must notify HCFA in writing that it is withdrawing an appeal or it is returning the funds, we are revising § 433.38(c)(1) to be consistent.

Summary

In summary, we are adopting the regulations as proposed, except for the five following changes:

1. A State may decide to return funds previously retained without withdrawing its appeal.

2. A State's decision to return or retain FFP for disallowances it is appealing must be made on all of the disputed funds on which it is pursuing an appeal before the Board.

3. We have clarified the regulations to show we will return any principal and interest paid by a State if the courts overturn a disallowance sustained by the Grant Appeals Board.

4. The regulations state explicitly that a State must notify HCFA in writing that it wishes to retain the FFP.

5. The cross-references in the preamble to 45 CFR 16.10 and in 42 CFR 433.38(b)(1) to 45 CFR 201.14 are amended to read "45 CFR 16.21" and "45 CFR 74.304", respectively.

Impact Analyses

Executive Order 12291

The Secretary has determined that these final regulations are not likely to result in an economic effect that meets the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291. That is, the regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

These regulations implement legislation that imposes an interest charge on disallowed funds that a State retains pending completion of the administrative appeals process. It is estimated that the Federal government will save a negligible amount in program expenditures each year beginning with fiscal year 1983. However, this economic effect is a result of the statute and not these regulations, which merely implement the statue. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Section 603(a) of Public Law 96-354 (the Regulatory Flexibility Act of 1980) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis (RFA) when the agency is required by the Administrative Procedure Act (5 U.S.C. 553) to publish a final rule. The RFA is intended to explain what effect regulatory actions by agencies will have on small businesses and other small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than 50,000 persons.

As explained above, the legislation requires a State agency to pay interest on disallowed claims that the State retains during the administrative appeals process, if the Grant Appeals Board upholds the disallowance. The regulations establish the precedures to be used to implement the legislation. Because Medicaid State agencies do not fall into the category of small governmental jurisdictions, the Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Grant-in-aid program—health, Mechanized claims processing and information retrieval systems, Medicaid, State fiscal administration, Third party liability.

PART 433—STATE FISCAL ADMINISTRATION

42 CFR Part 433 is amended as follows:

1. The authority citation for Part 433 is revised to read as follows:

Authority: Secs. 1102, 1902(a)(25), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(25), 1396b(d)(2), 1396b(d)(5), 1396b(o), 1396b(p), and 1396k), unless otherwise noted.

2. The Table of Contents is amended by adding a new § 433.38 to subpart B as follows:

Subpart B—General Administrative Requirements

* * * * *

Sec.

433.38 Interest charge on disallowed claims for FFP.

3. A new § 433.38 is added as follows:

§ 433.38 Interest charge on disallowed claims for FFP.

(a) *Basis and scope.* This section is based on section 1903(d)(5) of the Act, which requires that the Secretary charge a State interest on the Federal share of claims that have been disallowed but have been retained by the State during the administrative appeals process under section 1116(d) of the Act and the Secretary later recovers after the administrative appeals process has been completed. This section does not apply to—

(1) Claims that have been deferred by the Secretary and disallowed within the time limits of 45 CFR 201.15. Deferral of claims for federal financial participation; or

(2) Claims for expenditures that have never been paid on a grant award; or

(3) Disallowances of any claims for services furnished before October 1, 1980, regardless of the date of the claim submitted to HCFA.

(b) *General principles.* (1) HCFA will charge a State interest on FFP when—

(i) HCFA has notified the Medicaid agency under 45 CFR 74.304 that a State claim for FFP is not allowable;

(ii) The agency has appealed the disallowance to the Grant Appeals Board under 45 CFR Part 16 and has chosen to retain the FFP during the administrative appeals process in accordance with paragraph (c)(2) of this section; and

(iii) (A) The Board has made a final determination upholding part or all of the disallowance; (B) the agency has withdrawn its appeal on all or part of the disallowance; or (C) the agency has reversed its decision to retain the funds without withdrawing its appeal and the Board upholds all or part of the disallowance.

(2) If the courts overturn, in whole or in part, a Board decision that has sustained a disallowance, HCFA will return the principal and the interest collected on the funds that were disallowed, upon the completion of all judicial appeals.

(3) Unless an agency decides to withdraw its appeal on part of the disallowance and therefore returns only that part of the funds on which it has withdrawn its appeal, any decision to retain or return disallowed funds must apply to the entire amount in dispute.

(4) If the agency elects to have HCFA recover the disputed amount, it may not reverse that election.

(c) *State procedures.* (1) If the Medicaid agency has appealed a disallowance to the Board and wishes to retain the disallowed funds until the Board issues a final determination, the agency must notify the HCFA Regional Administrator in writing of its decision to do so.

(2) The agency must mail its notice to the HCFA Regional Administrator within 30 days of the date of receipt of the notice of the disallowance, as established by the certified mail receipt accompanying the notices.

(3) If the agency withdraws either its decision to retain the FFP or its appeal on all or part of the FFP or both, the agency must notify HCFA in writing.

(4) If the agency does not notify the HCFA Regional Administrator within the time limit set forth in paragraph (c)(2) of this section, HCFA will recover the amount of the disallowed funds from the next possible Medicaid grant award to the State.

(d) *Amount of interest charged.* (1) If the agency retains funds that later become subject to an interest charge under paragraph (b) of this section, HCFA will offset from the next Medicaid grant award to the State the amount of the funds subject to the interest charge, plus interest on that amount.

(2) The interest charge is at the rate HCFA determines to be the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period for which interest will be charged.

(e) *Duration of interest.* (1) The interest charge on the amount of disallowed FFP retained by the agency will begin on the date of the disallowance notice and end—

(i) On the date of the final determination by the Board;

(ii) On the date HCFA receives written notice from the State that it is withdrawing its appeal on all of the disallowed funds; or

(iii) If the agency withdraws its appeal on part of the funds, on (A) the date HCFA receives written notice from the agency that it is withdrawing its appeal on a specified part of the disallowed funds for the part on which the agency withdraws its appeal; and (B) the date of the final determination by the Board on the part for which the agency pursues its appeal; or

(iv) The date HCFA receives written notice from the agency that it no longer chooses to retain the funds.

(2) HCFA will not charge interest on FFP retained by an agency for more than 12 months for disallowances of FFP made between October 1, 1980 and August 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 19, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 6, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-17186 Filed 6-24-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 32

[CGD 82-063b]

Revision of Staff Codes and Addresses

AGENCY: Coast Guard, DOT.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an address in the final rule issued on February 3, 1983 (48 FR 4780), which revised or updated the addresses and staff codes of the component divisions of the Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, to reflect recent organizational changes. In that final rule, the staff code in the mailing address in 46 CFR 32.53–3(b) was unintentionally changed from "(G–MMT/82)" to "(G–MVI)". This document inserts the correct new staff code "(G–MTH)".

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G–MTH–3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202) 426–1577.

List of Subjects in 46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety.

PART 32 [AMENDED]

In consideration of the foregoing, § 32.53–3(b) is corrected to read as follows:

§ 32.53–3 Exemptions.

* * * * *

(b) Requests for exemptions must be submitted in writing to: Commandant (G–MTH), U.S. Coast Guard, Washington, D.C. 20593.

* * * * *

(14 U.S.C. 632, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: June 21, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-17254 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 67

[CGD 80-107]

Documentation of Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: On June 24, 1982 the Coast Guard published final regulations governing the documentation of vessels [47 FR 27490]. The regulations, as published, contain an error in 46 CFR 67.37–9(c). That section refers back to § 67.37–1(a)(4) but should refer to § 67.37–1(a)(3). The error resulted from failure to take into account a reversal of the order of those two paragraphs in the final regulations as compared to the order used in the proposed regulations. This document will correct the reference.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert R. Meeks, Office of Merchant Marine Safety (202) 426–1492, or (202) 426–1493. Normal office hours are between 7 a.m. and 5 p.m. Monday through Friday, except holidays.

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

PART 67—[CORRECTED]

In consideration of the foregoing, 46 CFR 67.37–9(c) is corrected to read as follows:

§ 67.37–9 Requirements for instruments supplemental to preferred mortgages.

* * * * *

(c) Be accompanied by an affidavit as described in § 67.37–1(a)(3), from the assignor(s), assuming party(ies), or mortgagor(s), as appropriate.

Dated: June 17, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office Merchant of Marine Safety.

[FR Doc. 83-17252 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-90; RM-2587; RM-3226; RM-3367; FCC 83-259]

Radio Broadcast Services; Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules to permit the operation of an increased number of FM broadcast stations. Rule changes were necessary to meet the demand for FM broadcast service that could not be

satisfied under the present rules. Under the new rules, existing stations will receive approximately the same protection from interference as the current rules provide. The new technical rules have been expressed in the International (metric) System of Units

DATES: The effective date of the new rules will be announced if after the FCC acquires additional funding to obtain the staff resources necessary to meet the burdens imposed as a result of the rule changes. After the additional funds are approved, the FCC will publish a public notice in the **Federal Register** giving the effective date of the new rules.

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Federal Communications Commission Mass Media Bureau (202) 632-9660.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments. BC Docket No. 80-90, RM-2587, RM-3226, RM-3367, FCC 83-259.

Adopted: May 26, 1983.
Released: June 14, 1983.

By the Commission: Commissioner Quello dissenting and issuing a statement; Commissioner Fogarty not participating; Commissioner Rivera issuing a separate statement; Commissioner Sharp absent.

Introduction

1. The Commission's *Notice of Proposed Rule Making* ("*Notice*") in this proceeding suggested a number of rule changes to increase the availability of FM stations within the present assignment structure.[1]

2. The FM band extends from 88-108 MHz and is divided into 100 channels numbered from 201 to 300. The lower 4 MHz contains Channels 201 to 220 and is reserved for noncommercial educational stations. The upper 60 channels between 92 MHz and 108 MHz may be used by both commercial and noncommercial stations. The use of these channels is governed by the FM Table of Assignments ("Table") found in Section 73.202(b) of the Commission's Rules. It provides a listing of communities in which stations are operating, or may operate, and the channel on which they must transmit.

3. When a new station is desired, the Table must be amended through a rule making proceeding to add the requested community and channel. The proposed station must be located a sufficient distance from pertinent cochannel and adjacent channel stations and still be capable of providing a strong signal over the desired community. The distance separation requirements are based upon the assumption that each station is currently, or at some future time will be, operating with maximum facilities (effective radiated power, "ERP," and antenna height above average terrain, "HAAT"). Thus, the Table permits stations to begin operating with less than maximum facilities and to increase them as their financial situations improve.

4. The Commission authorizes three classes of FM stations. Class A stations operate only on 20 designated channels and have a service radius of 15 miles. The service radius is determined from the co-channel distance separation requirements, which provide protection from interference to approximately the station's 1 mV/m contour. Class B or C stations operate on the remaining 60 channels. Whether a station is designated Class B or Class C depends upon it geographic location. Class B stations are assigned in the more densely populated parts of the nation and have a service radius of 40 miles, representing protection of their 0.5 mV/m contour. Areas where Class B stations may be located are designated Zones I and I-A. Class C stations assigned elsewhere (Zone II) and have a service radius of 57 miles, representing protection of their 1 mV/m contour.

5. The *Notice* recognized that under the present allotment rules, additional service cannot be offered to many parts of the nation where demand has not been satisfied. Commission studies identified three existing standards that appeared to limit new FM service:

(a) Class A stations may operate only on 20 designated channels, thereby foreclosing substantial areas from using the 60 Class B/C channels for these smaller stations;

(b) the distance separation requirements assume stations are operating with maximum permissible facilities, although 80% of the Class C stations and 35% of all FM stations were not operating with maximum, or near maximum, facilities at the time the *Notice* was adopted; and

(c) the Class B separations, which reflect protection of the 0.5 m/Vm field strength contour rather than the 1 m/Vm contour, prohibit many communities from obtaining additional FM allotments.

6. Based on these findings, the Commission proposed to respond to the continuing demand for FM assignments by:

(a) Allowing stations with Class A facilities to operate on the 60 Class B/C channels if a Class A channel was not available;

(b) Increasing the number of classes allowed from three to five by adding Class B1 (operating facilities between Classes A and B) and Class C1 (operating facilities between Classes B and C) stations, so protection would more closely approximate service area;

(c) Permitting Class B stations to operate in the same areas as Class C stations (Zone II);

(d) Adopting a new distance separation table based on providing uniform protection to the 1 m/Vm (60 dBu) contour of all stations (the primary impact of the adoption of this proposal would be on Class B stations whose separations are now based on the 0.5 mV/m contour);

(e) Requiring existing Class B and C stations operating with less than maximum, or near maximum, facilities to reach the minimum power and antenna height specified for the new classification sytem within three years, or be reclassified based on their actual operating facilities; and

(f) Allowing *new* Class C stations six years to reach their minimum power and antenna height requirements because they would be the only class of station to have a minimum antenna height requirement.[2]

7. Central to the *Notice's* proposals was the retention of the basic Table of Assignments framework. It did not propose to modify the allotment structure represented by the Table. Instead, the Commission sought to focus on those changes that could achieve immediate benefits and to defer consideration of more complex proposals until a later date. These included such matters as terrain shielding, directional antennas, etc.

8. Those parties that submitted comments and reply comments that relate directly to our discussions are listed in Appendix A. Seven months after the close of the reply comment period, the National Radio Systems Committee ("NRSC") submitted new FM receiver measurement data.[3] On August

[1] 78 FCC 2d 1235; 45 FR 17602; adopted February 28, 1980.

[2] The Commission also proposed to adopt the International System of Units (commonly termed the metric system) for the FM broadcast service because it was considering modifying many of the technical rules.

[3] The National Radio Systems Committee is co-sponsored by the EIA and the NAB and "is comprised of persons from the broadcasting and electronics manufacturing industries and others interested in improving the overall technical quality of radio broadcasting and reception. The NRSC by

3, 1982, the Commission re-opened the record to accept the NRSC report and two others filed by the Advisory Committee on Radio Broadcasting ("Advisory Committee").[4] In addition to accepting the reports, the Commission allowed 30 days for other parties to comment on these late-filed studies.[5]

9. Subsequently, the Advisory Committee submitted additional reports and again requested that the Commission re-open the record to accept them and to request comments on their findings.[6] The Commission declined the Committee's request stating that it would consider the reports to be *ex parte* comments submitted under the guidelines governing non-restricted proceedings. Thus, the Commission could consider these reports in its deliberations and any other comments submitted in response to the filing of the reports could also be considered to be *ex parte* comments.

Summary of Actions Taken

10. The Commission has reviewed each of the comments filed. Based on that review, we have decided to amend the rules in the following manner:

(a) Class A stations will be allowed on Class B/C channels;

(b) the distance separation requirements will *not* be modified for existing station classes to reflect uniform protection to the 1.0 mV/m contour (thus, separations for Class B stations in Zones I and I–A still will be based on the 0.5 mV/m contour rather than the 1.0 mV/m proposed);

(c) one new class of station, Class B1, with an expected service range of 45 kilometers (28 miles), will be allowed to operate in Zones I and I–A;

(d) two new classes of stations, Classes C1 and C2, with expected service ranges of 72 kilometers (45 miles) and 52 kilometers (32 miles), respectively, will be allowed to operate in Zone II;

(e) existing stations will be required to meet minimum facility requirements within three years or be reclassified to a station class based on the new classifications. For Class C stations, a minimum antenna height requirement of 300 meters (984 feet) HAAT will be adopted;

(f) new Class C stations will be required immediately to meet minimum facilities rather than being provided six years within which to comply; and

(g) the rules contained in the FM service will be converted to the International (metric) System of Units.

These amendments are intended to provide for additional FM stations in many parts of the country and still permit existing stations to provide service equivalent to that embodied in the present allotment rules. They represent, in our best judgment, the optimum rule changes necessary to allow new stations while preserving the unique qualities of the FM service.

Analysis of the Record

11. Our analysis of the record in this proceeding first will set forth those comments that relate generally to the legal and policy issues presented in the *Notice*. After a summary and discussion of those comments, we will proceed to a recitation and analysis of those comments that addressed general technical issues. Then the record on each specific proposal set forth in the *Notice* will be summarized and discussed. Finally, we will discuss various matters that are ancillary to the adoption of the changes set forth in paragraph 10, *supra*, including the implementation of those changes.

Legal and Policy Matters

12. A number of parties argued that sufficient information was not available, nor sufficient thought given, for the proposals in the *Notice* to be satisfactorily considered. ABC, NAB, and other parties urged the Commission to develop a master plan for an integrated AM and FM aural broadcast service before seriously considering any deviations from the existing service structures. They claimed the current approach of instituting separate proceedings for each service represented a conviction to create new radio outlets without regard to public service costs. Cox and Multimedia supplied detailed historical perspectives of the development of the FM service. Noting FM's complementary nature to the AM service, they argued that the suggested modifications be considered in an omnibus proceeding.

13. ABC also argued that the instant proceeding is an ineffective mechanism for dealing with important issues such as demand, economic viability, appropriate service area size, assignment priorities, and viable alternatives. The Advisory Committee urged the Commission to make more extensive economic studies of FM stations before taking final action. Its reports to the Commission, along with comments submitted by NBC and ABC, cited economic losses and small profit margins as indications that further competition would be undesirable in many situations. PAB and NRBA claimed that additional outlets in marginally profitable markets would result in less local news and public affairs programming. ABC pointed out that, according to several court decisions, the Commission is expected to assess the merits of adding new broadcast stations by balancing public service gains against losses.

14. Some parties argued that demand by potential broadcasters does not represent a public interest determination as required by the Communications Act. Still others claimed that adoption of the proposals in the *Notice* would violate section 307(b) of the Communications Act, which requires a "fair, efficient and equitable distribution of radio services." They suggested that these factors only can be fully examined if the Commission issues a Notice of Inquiry into these subjects before proposing specifics in a Notice of Proposed Rule Making.

15. NBC contended that the current FM service is efficient and diverse. Quoting from the Spring 1980 Arbitron data, it stated that of the top 100 markets containing 71% of the

---

its charter does not assume a position of advocacy on any matter before the Federal Communications Commission or any other governmental body. One function, however, is to provide agencies with information on transmitting and receiving technology which may be used in rulemaking proceedings."

[Committee description taken from the comments of the NRSC; October 16, 1981.]

[4] The Commission acted in response to a petition from the Advisory Committee. This committee evolved from the "Advisory Committee on AM Broadcasting in Region 2." The latter committee was established to advise the staff of the Commission during its preparation for, and participation in, the International Telecommunications Union Regional Administrative Conference on AM Broadcasting in the Western Hemisphere.

The purview of the AM conference committee was expanded to include FM broadcast issues when its charter was amended on September 10, 1980. It was renamed the "Advisory Committee on Radio Broadcasting" and its organization was altered to specify two subgroups within the committee. One subgroup was to address technical matters while the other concentrated on spectrum allocation matters. [See the *Memorandum Opinion and Order* issued by the Commission on September 22, 1980 (FCC 80–537).]

[5] The studies are entitled: (1) *Report to the National Radio Systems Committee from the FM Subcommittee Task Force*, July 24, 1981 ("NRSC Report"); (2) *FM Broadcasting Receiver Characteristics and Protection Criteria*, July 7, 1982, ("Technical Subgroup Report"); and *Report on FM Allocation Policies*, July 9, 1982 ("Allocations Subgroup Report").

[6] The studies submitted by the Advisory Committee are entitled: *Subjective Evaluations of Audio Degraded by Noise and Undesired FM Signals* ("Subjective Audio Study"), November 17, 1982; *A Study of FM Station Mileage Separations* ("Mileage Separations Study"), November 17, 1982; *Potential Effects of BC Docket No. 80–90 on FM SCA Operations* ("SCA Study"), November, 1982; and *A Study of Stereo Radio Listening* ("Stereo Listening Study"), December 7, 1982.

population over 12 years of age, 88 markets contain 5 or more FM stations; and of the top 150 markets containing 77% of the population over 12 years of age, 123 markets contain 5 or more FM stations. A study performed by A.D. Ring & Associates ("A.D. Ring") was submitted to support the proposition that the proposals would not increase availability in larger markets. The study investigated potential FM stations under the proposed changes for 24 of the top 100 markets. It indicated that no additional FM stations were possible in any of the top 12 markets and only one was found in the top 15 markets. Of the 9 remaining markets studied (markets 16 to 96 at ten market intervals), it indicated that the proposed changes would result in no Class C or C1 stations, 4 Class B stations to 3 communities, 19 Class B1 stations to 7 communities, or 34 Class A stations to all 9 communities.[7] Because no additions would be possible in the highest demand markets (*i.e.*, the top 12), several parties claimed that the proposed changes served no useful purpose.

16. After reviewing the comments submitted in this proceeding, we believe that no more appropriate forum exists within which to comprehensively examine the public interest need for additional FM radio service and the rule changes necessary to bring it about. Every effort has been made to establish as complete a record as possible and to encourage widespread public and industry involvement. We expanded the purview of the Advisory Committee to include the FM service, extensively delayed this proceeding by extending the comment period several times, and even accepted late-filed comments. The Commission believes the record before us is adequate to explore all pertinent issues. All matters addressed by the commenting parties (including those studies concerning new receiver characteristics, average distance separations, and audio listener tests and surveys) have been fully examined and factored into our decision. The need for additional outlets and the rule changes necessary to accommodate them have been carefully weighed against the effects such changes would have on the present FM service. We have concluded that the public interest is best served by adopting most of the rule changes proposed. There exists no reason to investigate further the desirability of modifying the rules, as many parties suggested, because such an investigation would only re-confirm what the record before us already indicates and would needlessly delay the benefits of additional FM station availability. Moreover, as subsequent discussion indicates, we have been keenly aware of the interrelationships of the AM and FM services in satisfying our statutory mandate to make such distributions of licenses, frequencies, hours of operation, and power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.[8]

17. When assigning radio broadcast stations, the Commission's basic objectives have been to provide at least one service to everyone, diversified service to as many persons as possible, and outlets for local expression addressing each community's needs and interests.[9]

We recognize that these goals can be self-contradictory; therefore it is necessary to strike compromises that both foster service to all and provide for outlets for local expression in as many communities as possible. Such compromises have been struck in the past, resulting in radio service in the United States to 98% of the population with at least one primary fulltime aural service (i.e., one primary nighttime AM or one FM signal of 1 mV/m field strength or greater. *Further Notice of Proposed Rule Making*, Docket No. 20642, at paragraph 53. The rule changes adopted herein will foster the same goals, providing opportunities for new local outlets while preserving existing primary service areas.

18. Some of the comments stated that demand for assignments does not represent the necessary Commission finding that such assignments are "in the public interest." Demand, however, does represent an applicant's judgement of a community's interest in and potential financial backing for a new station. We regard this as a fair basis on which to examine the public interest aspects of new proposals. As a practical matter, if a community really has little potential for establishing an additional station, we believe it unlikely that applicants or investors would be willing to extend the effort or financial backing that is required. As a second matter, potential competition should not be curtailed by the Commission second guessing a market's potential. Other comments claimed that increased competition could result in disservice to the public by reducing existing programming services. Our experience is that the public generally benefits from program diversity brought about by increased competition. In an individual situation, however, based on an application and appropriate pleadings, the Commission may be called upon to evaluate the overall adverse impact on service that could result from the institution of a new service in a community. See, *e.g.*, *Carroll Broadcasting* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958).

19. We also believe there is ample evidence to support the need for more FM stations. The Station Requirement List, submitted to the Region 2 Conference on AM Broadcasting, represents approximately 3,000 separate locations where the Commission foresaw a potential need or demand for nearly 4,000 additional radio stations in the immediate future.[10] The importance of the list for this proceeding is not the specific communities noted but the magnitude of the communities identified as being underserved. More than half of these assignments are in communities with no local AM or FM assignments, no local nighttime service, or are for additional minority-owned or local public radio stations. The Commission's

[7] Presumably, some combination of Classes A, B1, and B stations is possible in most of the communities. However, this is unclear from the data submitted.

[8] Section 307(b) of the Communications Act of 1934, as amended; 47 U.S.C. 307(b).

[9] The Commission recently simplified its FM allotment priorities and re-affirmed these goals for this broadcast service. New FM channels are to be allotted: first, where they will provide a first fulltime aural service; second, where they will provide a second fulltime aural service or a first local service; and third, where they are necessary to meet other public interest matters. (See the *Report and Order* in BC Docket No. 80-130, reconsideration pending, adopted on May 20, 1982.) Those comments seeking a re-examination of the FM priorities have been satisfied by Commission action in BC Docket No. 80-130.

[10] The Commission notified this list to the International Frequency Registration Board (IFRB) to insure international protection of our future radio needs. The list of potential station requirements for various countries in the Western Hemisphere was submitted to the Second Session of the Administrative Conference on AM Broadcasting in Region 2 held in November and December, 1981, to establish future planning needs. Although time did not allow adoption of all these requirements, provisions were made for adding them after the conference. (See *List of Requirements Concerning Stations to be Authorized between 1 January 1983 and 31 December 1987*; Appendix to Document No. 19-E, 16 October 1981.) This inventory of potential interest or demand for additional fulltime radio stations was compiled from lists of: (a) Locations of all daytime-only AM stations; (b) cities asserted as needing minority-owned or public radio stations as defined by National Black Media Coalition and National Public Radio in the *Report on New Station Demand and Viability* as submitted by the Advisory Committee on December 17, 1980; (c) a few places where declarations of interest were filed in response to BC Docket No. 79-164 (the 9 kHz proceeding); and (d) communities of at least 2,500 persons which have no local AM or FM assignments and are located more than 10 miles from cities of at least 25,000 persons (compiled by the staff). The Commission has made extensive use of this list for international negotiations as well as to evaluate AM service availability for the 9 kHz proceeding.

studies have shown that additional AM stations possible as a result of our clear channel actions could only satisfy about 125 of these needs.

20. The A.D. Ring study on the availability of new allotments assumed that demand for new assignments exists only in the larger communities already having assignments. Nowhere in the *Notice* did we imply that the top 100 markets (sampled by A.D. Ring) represent the most serious cases of need. In this regard, the Commission undertook an extensive computer analysis of 200 entries from the Station Requirements List that had no local radio outlets, contained only daytime AM stations, or were asserted as needing additional minority-owned or public radio stations. Our study found that the existing FM allotment rules would allow a total of 57 new stations at 15 of 200 locations studied (see Table I of Appendix B). In other words, 7% of the locations studied could have at least one new FM outlet under the existing rules. For the various proposals under consideration, the studies indicated that the availability of at least one new outlet per location ranged from 41% to 61% of the study locations depending on which modifications are adopted. Thus, the potential of each of the Commission's individual proposals to satisfy the need for additional FM stations can readily be seen.[11]

21. To determine if these results were indicative of availability at a larger number of communities, the Commission conducted another examination using 1000 entries. This study indicated that our earlier findings were conservative. It also showed that under the rules being adopted, additions could be made to approximately: 49% of the communities studied that have daytime AM stations only; 31% of the communities studied that have no local assignments; 40% of the communities studied that were asserted as requiring additional minority-owned stations; and 26% of the communities studied that were asserted as requiring additional public radio assignments that cannot be accommodated in the reserved portion of the FM band (82–92 MHz).[12]

22. Other indications of unsatisfied demand for additional FM service may be found in the comments of more than 35 parties who supported the proposals in this proceeding. Although the *Notice* specifically requested that commenters not submit requests for new FM allotments, approximately half indicated that additional FM stations needed in their communities were not available without the changes proposed. We also note that we receive approximately 200 petitions annually to amend the FM Table of Assignments, and that approximately 60% of the new assignments have two or more competing applications submitted.

23. In sum, we are persuaded that there exists a substantial demand for new FM service that cannot be satisfied under existing rules. We are persuaded further that the rule changes adopted herein provide the most efficacious means of accommodating that demand.

Technical Matters

24. Technical oppositions to the proposals in the *Notice* generally alleged that few stations operate with maximum facilities at minimum spacing. Therefore, stations are covering larger areas with a higher quality service than would be expected under the present rules.

25. The proposals contained in the *Notice* were, with one exception, based on the same technical assumptions as the allotment and assignment rules adopted in 1963. These rules consider interference protection to be determined solely by the separation, power, and antenna height limitations. They do not recognize concepts such as protected and interfering contours for individual stations. The distance separations provide protection from co-channel and first adjacent channel interference within a "primary" service range.[13] At that time, the Commission decided that service ranges of 15 miles for Class A stations, 40 miles for Class B stations, and 65 miles for Class C stations would provide reasonably adequate service areas while permitting a sufficient number of FM assignments to be made.[14] Assuming that stations operate with maximum facilities, the minimum co-channel separations yielded protection of the 0.927 mV/m contour for Class A, 0.562 mV/m for Class B, and 0.944 mV/m for Class C stations. The *Notice* proposed separations that would have protected the 1.0 mV/m contour for all classes of stations; in other words it retained the approximate service areas of the Class A and Class C stations but reduced it for Class B stations.

26. In response, the comments claimed service far beyond these contours and noted that the present FM allotment rules result in an interference-limited service. That is, the predicted *interference-free* service areas are generally greater than those anticipated by the minimum separation requirements because few, if any, stations are limited in every direction by co-channel and adjacent channel stations operating with maximum facilities at minimum spacings. Several parties claimed that a signal at the 0.05 mV/m (34 dBu) level may be received. ABC noted that calculations provided by A.D. Ring indicated that a field strength of 0.063 mV/m (36 dBu) will permit satisfactory stereophonic service (in the absence of interference) while good monophonic reception is possible with a field strength of only 0.0056 mV/m (15 dBu). Still other parties noted that the CCIR, the International Radio Consultative Committee, recommends .25 mV/m (48 dBu) for general planning purposes.

27. Metromedia, Cox, Multimedia, and NBC submitted detailed showings of what they considered the interference-free service contours of their stations. ABC stated that an examination of their 7 owned and operated stations revealed that their existing interference-free service areas were greater than the area recognized by the minimum distance requirements. Metromedia submitted studies claiming the interference-free service offered by three of its stations would be reduced by 28, 37, and 43% of their geographic service areas if the proposal suggested in the *Notice* were adopted. Similar NBC studies indicated

[11] For convenience, a summary of the studies and number of additions possible for each alternative is listed in Appendix B. Further explanation of these studies, their definition and limitations, can be found in a report entitled "Computer Project for BC Docket No. 80-90 (Increased FM Availability)", May 13, 1982, that has been placed in the docket file.

[12] The difference in availability between the existing rules and the modifications adopted herein is shown in Appendix B, Figures 1 and 2. These figures show the approximate distribution of additions for 1000 study locations throughout the contiguous United States. Every asterisk or star on Figure 1 indicates an approximate location (with respect to referenced communities) where an additional FM station may be added under the existing rules. Figure 2 indicates the possible station locations under the new rules adopted today, assuming all existing stations elect to increase facilities to avoid being reclassified.

[13] When originally adopted in 1963, the minimum separations were based on the existing FM propagation curves. These curves are not expected to predict service or interference at any particular location at any one time. However, they are useful for predicting service on a large area basis and therefore are used to analyze general assignment questions. Thus, the predicted service area of a class of station is indicated by the propagation curves for the generalized situation and may, or may not, reflect the actual service provided by a given station. For this reason, the rules state that the only protection to which a station is entitled is that provided by the distance separation requirements, not the predicted service area indicated by the propagation curves (see Section 73.209 of the Rules). We are not changing this concept in this proceeding.

[14] The propagation curves in use in 1963 predicted a 65 mile service range for Class C stations. Those curves were refined in 1975 (53 FCC 2d 855), and the new curves indicate that the 180 mile co-channel separation figure yields a 57 mile service range as indicated at paragraph 4, *supra*.

population losses for its stations of between 4.8 and 33% if their interference-free service areas were restricted by the proposals. It further noted that those losing service would not have it replaced by the new stations. NBC claimed that locations between 33 and 60 miles from New York City would lose most, if not all, of the New York City service. Thus, it concluded, the suburban and rural populations surrounding the larger cities would suffer the greatest losses. Cox and Multimedia also claimed that the only practical way of serving many suburban areas is with wide-area metropolitan stations.

28. Another A.D. Ring study submitted by ABC claimed a net loss in service would result from the Commission's proposals. It contained several theoretical assignment situations where new stations were interjected into certain currently permitted station groupings. All additions resulted in a net loss of service area.[15] It claimed this proved that any increases in FM availability would be to the detriment of present listening audiences.

29. NTIA, in reply, argued that stations should only be protected to "a primary service area" and service beyond that limit is properly considered secondary or unprotected. It also argued that the A.D. Ring study did not consider several factors, including the use of directional receiving antennas in rural areas (which would reduce the level of the interfering signal), the capture effect of FM receivers to distinguish the desired signal from the weaker undesired co-channel signal (which would reduce the large areas of degraded audio quality),[16] and the population densities in the interference zone (which should be much smaller than those near new community outlets).

30. Upon review of these comments, we note that the Commission recognized in 1963 that certain amounts of potential interference-free service had to be discounted if a sufficient number of assignments were to be made. Thus, we adopted mileage separations which struck a balance between the size of a station's contemplated service area and the number of stations that could be authorized throughout the country. Our experience since then has indicated that the balance was not incorrectly determined. From 1,100 commercial FM stations in 1963, we now have 3,800 and the demand for new FM stations is evident by the number of new channel allotments requested every year and the instances of competing applications for available channels.

31. We recognize that the introduction of new stations into the current scheme could cause interference to the reception of existing stations beyond their normally contemplated service areas. Indeed, this is the case under present rules where the Commission regularly receives letters complaining of lost FM service (outside the primary service area) when a new station is activated or an existing station modifies its facilities. Proposed rule changes that would permit additional new stations would similarly create losses of secondary services. The opponents of the rule changes, however, have failed to provide any information that the populations allegedly losing such extended services exceed the population gains from new stations.[17] We believe that these losses are more than compensated for by the provision of new services, particularly to communities without local service. In this regard, we note that 98% of the population of the United States currently receives at least one fulltime primary aural service. The new stations contemplated herein would not adversely affect that primary service, but they would provide local service (or local fulltime service) to communities that are precluded under current rules. In this manner, the percentage of the population enjoying primary aural service and the number of communities with local stations may be increased. On balance, therefore, we believe that the provision of new primary service and first and/or second local service is a higher priority than the preservation of service beyond the normally protected service area of existing stations. This is particularly the case where that extended service may be adversely affected under current rules if: the providing station changes its location; a limiting station is authorized under current distance separation requirements; or an existing limiting station changes or increases its facilities within current restrictions. Accordingly, we do not believe it appropriate to protect these extended service areas at the expense of new primary service.

32. Some commenters also alleged that the present minimum separation requirements result in a low quality signal at the outer edge of a station's primary service range. They noted that while the original protection ratios are satisfactory for regular FM broadcast operations, they are unable to protect multiplexed operations (stereophonic broadcasting and subsidiary communications operations). The comments urged sufficient protection of the service contour to permit "satisfactory" reception of these operations at the full extent of their service range.

33. In support of this argument, these comments called attention to the international standard for stereophonic reception which is based on a 50 dB audio frequency ("AF") signal to noise ("S/N") ratio. (The international standard is contained in the recommendations of the CCIR.) To provide for this level of quality, they argued that the distance separation requirements should be increased to provide higher radio frequency ("RF") desired to undesired ("D/U") signal protection ratios.[18] The Technical Subgroup Report summarized several recent studies and submitted curves indicating the effect of various distance separations on co-channel protection ratios for a desired 1 mV/m (60 dBu) signal.[19] This report and several

[14] The evaluations indicated a net loss in service area of: (a) 2,075 square miles if a Class B station were located at the center of 4 Class B stations located at the four corners of a square 170 miles on a side; (b) 563 square miles if a Class B1 station were located at the center of 4 Class B stations located at the four corners of a square 153 miles on a side; (c) 1,695 square miles if a Class B station were located at the tip of a triangle 120 miles from 2 Class B stations that are 170 miles from each other; and (d) 2,649 square miles if a Class B1 station were located at the tip of a triangle 108 miles from 2 Class B stations that are 153 miles from each other.

[15] Reception of one of two co-channel FM signals of nearly equal strengths is possible because FM receivers are capable of responding to the stronger of the two signals. AM receivers provide mixed reception in these cases.

[17] The previously referenced theoretical A. D. Ring study is limited to *areas* of alleged loss of service only. It, therefore, could not provide information on the populations within those areas, the population that would receive primary service from the presumed new station, or the other services available in the asserted "loss" area. The interference-free service areas that Cox and Multimedia claimed for their stations, however, each contain between 17 and 34 FM stations located either within or directly along the claimed service contours of each station. Between 7 and 14 of these locally assigned FM stations are located within the areas they claim will lose service (except for Station WAIA, Miami, Florida, where the interference-free service is mostly over swamp land).

[18] The Advisory Committee, urging protection of stereophonic service, submitted three studies dealing with this topic: the Stereo Listening Study; the Subjective Audio Study; and the Mileage Separations Study. These studies indicated that (1) approximately one-half of all radio receivers are capable of stereophonic reception, with stereophonic listening about twice as common as monophonic listening; (2) a 50 dB AF S/N ratio was necessary for satisfactory stereophonic reception (if the presence of the interfering signal was to be only "slightly annoying" according to a panel of expert listeners); and (3) the average co-channel separation between stations yields a 34 to 40 dB RF D/U signal protection ratio.

[19] The reports concerning protection standards are: *Report to the National Radio Systems Committee from the FM Subcommittee Task Force*, July 24, 1981; *Report of the National Quadraphonic Radio Committee to the Federal Communications Commission*, November 1975; *Recommendations*

comments noted that the NRSC Report concluded that reception of a signal yielding a 50 dB AF S/N ratio in the stereophonic mode requires RF D/U protection ratios of 40 dB for co-channel, 25 dB for first adjacent channel, and –20 dB for second adjacent channel stations.

34. Also, Group W alleged that FM subscarrier services could not be provided effectively if stations operated at minimum separation distances. They stated that any modifications which would decrease current protection could significantly reduce the quality of subcarrier services. The SCA Study, submitted by the Advisory Committee, echoed this argument and noted that further investigations should be performed.

35. Although the Commission was aware of the fact that some FM stations were providing stereo service in 1963 when it first addressed this issue in Docket No. 14185, and that such service required greater protection for high quality reception, it did not select separations to protect stereo service to the limit of the otherwise contemplated service radius. The requests to increase protection ratios were rejected based on the need to provide for a sufficient number of necessary assignments and because stereophonic broadcasts were considered to be an optional enhancement of a station's entertainment programming.

36. Nonetheless, the Commission re-examined the desirability of requiring such protection in response to the comments received in this proceeding. We used the NRSC receiver data to determine the expected service ranges under the present rules for monophonic and stereophonic reception of signals having different qualities. A 30 dB AF S/N ratio was used to represent the "standard quality" monophonic service now provided by the separation requirements. (This figure generally is assumed to form the basis for present protection ratios although, in Docket No. 14185, the Commission did not acknowledge it as such.) A 50 dB AF S/N ratio was used to represent the "high quality" stereophonic service referenced by the comments. We developed the following table based on a receiver having the performance characteristics obtained by averaging the data contained in the NRSC report (assuming co-channel stations operating at minimum distance separations with maximum facilities):

Type of reception	AF S/N ratios	RF D/U ratios	Predicted primary service area (miles)		
			Class A	Class B	Class C
mono	30 dB	14 dB	19.4	47.5	63.5
stereo	30	[1]20	16.6	41.5	57.1
mono	50	35	7.9	27.1	41.3
stereo	50	40	6.2	22.6	36.1

[1] RF D/U ratio used to determine present co-channel separation distances.

Thus, the present co-channel Class C separation requirement of 180 miles permits "standard quality" monophonic reception at a distance of approximately 63 miles while "high quality" stereophonic reception is expected to a range of 36 miles. All minimum separations provide for an "inner ring" of high quality stereophonic service which gradually diminishes to standard quality monophonic service at the limit of the primary service range in the direction of the undesired station.

37. To provide stations with the 40 dB RF D/U protection necessary to achieve a 50 dB AF S/N ratio, however, would require the separation between co-channel Class C stations to be increased from 180 miles to 255 miles. Such an increase amounts to a Class C station's signal experiencing 20 dB RF D/U protection at a distance of 82 miles from the transmitter rather than 57 miles as currently expected. In other words, protection that results in 59 dB AF S/N stereophonic service simply extends a station's monophonic service range. If the new distance separations were the only ones based on the higher protection levels, the new station classes would require distances as great, or almost as great, as the present requirements for the larger classes. For example, for a new Class C1 station to offer a minimal 34 dB RF protection level, it would have to be located at least 217 miles from an existing co-channel Class C station (while a new Class C would only have to be separated from an existing Class C station by 180 miles). Analysis of the adjacent channels yields analogous results.

38. To require protection at such levels would effectively preclude many new assignments. Even if this proceeding were broad enough to determine a minimum level for predicted stereo service, we do not believe that protection of that service beyond what was contemplated in 1963 would be appropriate. As we found 20 years ago, such protection would significantly increase the necessary separation between relevant channels and thereby substantially decrease the potential for new stations. We believe that the balance as originally struck provides adequate service areas to potentially support a station's operation while giving opportunities to create enough stations to provide a fair, equitable, and efficient distribution of radio service among the several States and communities. See 47 U.S.C. 307(b) (1936)

39. We recognize that permitting Class A stations on Class B/C channels and the intermediate classes of stations provide additional opportunities for the creation of stations that may have a limiting effect on the stereo service areas enjoyed by existing stations by virtue of their location at distances exceeding the minimums established in the rules. However, we believe that the potential gains of new service, consistent with the mandate of Section 307(b), far outweigh the losses of enhanced (stereophonic) service predicted by the commenting parties since protection was not afforded the affected areas under the existing rules. In making this judgment, we emphasize that such areas will continue to get the same protection for monaural service as was originally contemplated in 1963. That is to say, the balance is between new service and enhanced (stereophonic) service, and we find no compelling reason to increase previously granted protections at the expense of needed new service to communities that would otherwise be precluded from getting a new FM service.

40. In this regard, we again emphasize that the communities we have identified as potential locations for new FM assignments under these rules include a substantial percentage of places with no local service or with only daytime AM service where existing rules would not permit a new FM station. We believe that provision of such service outweighs a predicted loss of multiplex services that may already be severely curtailed by existing co- and adjacent channel stations.

41. The requests to increase the protection ratios on which the separations are based are directly related to the arguments concerning service beyond the theoretical protected contour. Parties have argued that we should protect a station's stereophonic service to what has been the limit of its normally contemplated service radius.

---

and Reports of the CCIR, 1978; and *A Study into Current FM Receiver Performance and the Relevance of FM Allocation Criteria*, Peter Cahn and Associates, April 1978.

They assert that most stations are located at more than the minimum mileage required by our rules and such stations therefore receive stereophonic protection beyond what could be expected at the minimum distance. We do not doubt that this is the case. Our mileage requirements are *minimums* and have never been waived at the allotment stage. Moreover, persons seeking new FM stations desire to serve specific communities. That fact along with the minimum mileage requirement would result in a location at some greater distance in almost all cases. If the service areas were determined solely by the distance to co-channel stations, there would be many cases where an FM station provided monaural and stereophonic service to a significantly larger area than that contemplated by the co-channel separation figures. However, in many cases, limiting stations are those on adjacent channels.[20]

42. Finding that a station's predicted stereo service area is limited by co-channel and adjacent channel stations does not mean that stereo service is unavailable in these areas or that the "losses" are irreversible. In fact, the new receiver data contained in the NRSC report indicates that the 20 dB RF D/U ratio provides for stereophonic reception, if possibly of lesser quality than some parties believe appropriate, and not just monophonic reception as previously thought by the Commission and many parties. Several parties used present protection ratios to claim that their service is being listened to and *enjoyed* at the outer edge of their interference-free contours. Therefore, the arguments suggesting that the signal quality at the present protection level is "unlistenable" appear highly exaggerated. Even the listening tests and surveys indicated only that a 30 dB AF S/N ratio was "annoying" for the "preferred" stereophonic reception mode. As an alternative to higher protection ratios, persons receiving service of inferior quality may easily improve it by installing a directional receiving antenna or improving the performance capability of their receiver. In this manner, persons residing in areas predicted to "lose" service may regain it if they so desire.

43. Several parties also stated that the Commission should protect a station's service range from second and third adjacent channel interference, rather than basing these separations on substitution of signals.[21] Finally, many parties asserted that mobile (*i.e.*, automobile radio) reception problems would be exacerbated if the distance separations set forth in the *Notice* were adopted.

44. ABES and ABC both argued that the second and third adjacent channel separation requirements should recognize the same service area as the co-channel and first adjacent channel separation standards. Not doing so is a direct cause of mobile FM receivers randomly capturing undesired stations. ABES also claimed that tuning in the "educational band" (where the primary service range is given full second and third adjacent channel protection) is comparatively easy versus tuning in the "commercial band" (where the replacement service concept permits closer spacing of stations). It claimed that this difference illustrates the appropriateness of protecting the primary service contour rather than using the replacement service concept. As an example of tuning difficulties, ABES noted mobile reception problems in the Washington-Baltimore area where 56 stations are assigned in the "commercial" portion of the FM band. ABES recommended that *full* protection from second and third adjacent channel interference be afforded to each station's primary service range. ABC and AGK suggested that a compromise "guardband" solution be adopted if full second and third adjacent channel protection standards were unacceptable. Their guardband compromise was to base the distance separation requirements on a −40 dB RF D/U ratio for both second and third adjacent channel separations.[22]

45. NTIA, on the other hand, found only minor interference problems with seven Los Angeles area FM stations that have second and third adjacent operations at less than minimum separations. The data did not address whether the public is experiencing reception problems, except to note that "several station managers knew of no interference problems." NAB, in reply, claimed that the resulting minor interference areas would not be typical because the receiver data referenced more expensive receivers than the average ones used by the public.

46. We recognize that some environments cause FM receivers, particularly mobile receivers, difficulty in maintaining suitable signal strengths to avoid second and third adjacent channel interference. Mobile receivers were not a major planning factor in the present separation requirements or those proposed in the *Notice*. Rather, we used the concept of replacement service. Mobile receivers, however, are subjected to wide variations in signal strength due to multipath reflections as they pass through different environments along highways. In these situations, they are likely to "lock onto" stronger adjacent channel signals rather than the desired signal. The Commission believes that the separation distances can be modified to reduce mobile reception problems and only minimally affect the potential for additional FM stations. Thus, the rules we are adopting provide "guardband" protection on second and third adjacent channels as suggested by ABC and AGK.[23]

47. Finally, several parties urged consideration of additional FM stations on a case-by-case basis, including consideration of directional antennas and terrain.[24] Cox/Multimedia, however, argued that a protected contour scheme risks engulfing the FM service with the interference and processing problems of the AM broadcast service. In any case, the Commission is not convinced that the benefits of the Table (*i.e.*, ease of comparing community needs, provision for future facility growth, and simplicity of processing procedures) should be abandoned at the present time. Even with the changes adopted herein, many, if not most, existing stations will be provided the opportunity for future growth. Although some parties indicated a preference for the "AM-type" method, this method is too time-consuming to comport with the Commission's goals to facilitate faster processing procedures.

---

[20] For example, the stereo service area of station WPGC, Morningside, Maryland is limited by a single co-channel station (WJAC-FM, Johnstown, Pennsylvania) and three adjacent channel stations (WFLO-FM, Farmville, Virginia; WFTR-FM, Front Royal, Virginia; and WFLN-FM, Philadelphia, Pennsylvania)

[21] Replacement service assumes that the service of one station will supplant, not simply interfere with, the service of another station. Using this concept, new stations must locate outside the predicted service area of stations 2 or 3 channels removed, and these stations must be outside the service area of the new station.

[22] This is the third adjacent channel protection standard required in the educational portion of the FM band (88-92 MHz). See Section 73.509 of the Rules.

[23] Also, the NRSC Report indicated that the second adjacent channel interfering signal can be 50 dB greater than the desired signal (−50 dB RF D/U) and still provide a 30 dB AF S/N stereophonic output signal. Thus, the −40 dB RF D/U ratio appears generous for distance separation requirements based on a monophonic reception standard.

[24] Although the use of directional antennas, terrain shielding, and co-location of transmitters were not proposed in this proceeding, the Commission did request additional information. We sought guidance on how these methods might be incorporated into our present Table structure. A variety of information on increasing FM availability and the potential problems of employing these techniques were submitted. Specific suggestions related to preservation of the Table were not provided.

The changes adopted herein should provide the opportunity to establish additional radio stations in areas of greatest demand that should not be delayed by case-by-case processing procedures. A go/no-go method as represented by minimum distance requirements still is advantageous and preferred.

Specific proposals

48. Before turning to a discussion of each proposed change, it may be helpful to reiterate the results of the Commission's computer studies on the potential benefits of those changes. Using 200 locations identified as needing additional radio services, the studies determined how many of these could have an allotment under the existing rules and each proposed rule change separately. The resulting progression demonstrates the incremental increase in availability, *i.e.*, the percentage of locations for which at least one new allotment was found, for the individual proposals. (The benefits of each option are set forth in more detail in the individual discussion of each proposed change and in Appendix B.)

Options	Availability (percent)
1. Existing rules	7
2. Class A stations on Class B/C channels	41
3. Class B stations in Zone II	41
4. Additional station classes B1, C2, and C1	43
5. Uniform protected contour	55
6. Reclassification:	
(With Option 5)	61
(Without Option 5)	57

49. *Option 2, Class A Stations on Class B/C Channels.* This proposal was opposed by ABC, NBC, and others who suggested that, although it could result in new assignments in areas outside the larger radio markets (*i.e.*, outside the top 12 markets), this service would represent an inefficient use of channels reserved for the wider area stations.[25] NTIA, on the other hand, suggested that reserving certain channels for Class A use should be eliminated altogether. They argued that any class of station should be allowed to operate on any channel. NAB, in reply comments, argued that this idea would be contrary to the basic principle of the Table which ensures stations for smaller sized markets.

50. Several parties claimed, and our studies confirmed, that this proposal would provide the single largest increase in availability for most locations. Our study of 200 locations found that availability of at least one new station per location would increase from 7% under the present rules to 41% if this proposal were adopted. Many argued that these outlets would be a new source of interference outside the primary service range of existing stations. As stated previously, however, the Commission believes that the opportunity to establish additional stations should not be curtailed by providing protection to secondary service areas. Therefore, we will allow Class A stations to operate on all channels.

51. NTIA also proposed that Class B and Class C stations be allowed to operate on Class A channels. However, that change should offer few potential assignments, and those that are possible would preclude large areas from future Class A allotments. Therefore, at this time we will allow Class A operations on any channel, but other station classes will not be permitted to operate on the Class A channels.

52. The *Notice* further suggested that Class A stations be permitted to occupy a Class B/C channel only if a Class A channel were not available. No specific comments addressed this proposed restriction. The Commission, however, is concerned that defining availability (*i.e.*, reasonable site, city grade coverage, co-location with AM transmitter, antenna farms, etc.) would be difficult. Therefore, we have decided not to adopt this restriction because it would require extensive showings and would be administratively cumbersome to enforce. We believe the applicant to be the best judge of its particular situation and accordingly shall not restrict its choice. Likewise, we will not require these channels to be used by the larger class of station first, as some parties urged. To do so might be counterproductive to the establishment of a local station if a potential applicant lacked the financial resources to construct and operate the larger class of station.

53. *Options 3 and 4, Intermediate Classes of Stations.* The *Notice* proposed creating two new classes of stations: Class B1 with facilities between Classes A and B and Class C1 with facilities between Classes B and C. It also suggested allowing Class B stations to operate nationwide. Thus, three classes of stations (Classes A, B1, and B) would be permitted in Zones I and I–A and all five classes (Classes A, B1, B, C1, and C) in Zone II.

54. Most comments did not focus on allowing Class B stations in Zone II independently of the other proposals. As pointed out in the *Notice*, simply allowing Class B stations to operate in Zone II would not allow many additional assignments unless the distance separations were changed.[26] [The FCC computer studies confirmed that no increase in availability was possible (Option 3 compared to Option 2) and only 12 of the Class A stations from Option 2 could become Class B stations (see Table II of Appendix B).] Consequently, the *Notice* proposed to reduce the protected contour of all Class B stations from 0.5 mV/m to 1.0 mV/m.

55. As for the creation of the proposed Class B1 and Class C1 stations, ABC claimed that the A.D. Ring studies proved they would not be beneficial to the public. It noted that no Class C1 stations could be identified and the Class B1 stations that were found would cause interference to existing services over geographic areas that would exceed the gains from the new services. ABES noted that additional classes of stations could be supported if variations of the *Notice's* proposals that would provide adequate protection to existing stations were adopted. Specific modifications were not suggested, however, except to urge protection of existing *interference-free* service areas. NTIA again urged an even greater number of station classes. It argued that the distribution of service areas for existing Class B and Class C stations would be more uniform if seven rather than five classes were adopted. In reply, Cox/Multimedia claimed that NTIA's proposal for seven classes does not contain any detailed technical analysis but merely an assumption that "if five classes of channels are efficient, seven would be even more efficient." They argued that NTIA failed to address the effects of tighter constraints on station growth, licensee costs, greater levels of predictable interference, and administrative impact.

56. Although NTIA's seven class proposal may represent more uniform statistical distribution of existing stations, this is a benefit of little value and great cost. An analysis of its proposal indicated only slight differences between co-channel separation requirements for different

[25] These parties also argued that adoption of this proposal would result in some Class A stations operating at a competitive disadvantage to higher power stations. This issue was addressed in BC Docket No. 80–130. The Commission found there that intermixture of different classes of stations within the same community should not be foreclosed as a matter of general policy. In any case, the issue now before us is not whether different classes of stations may be intermixed in the same market but whether Class A stations should occupy Class B/C channels.

[26] This occurs because the existing rules require Class B stations to be separated from co-channel Class C stations by 170 miles, or only 10 miles less than the co-channel Class C to C requirement of 180 miles.

classes of stations. For example, NTIA's Class C1 station would be separated from a Class C station by 160 miles, while a Class B station would be separated from the same Class C station by only 156 miles, a difference of only 4 miles. These separations would not allow stations sufficient room for facility growth or adequate transmitter site selection. It also would be administratively cumbersome for the Commission to oversee. While we believe additional station classes are desirable, a balance must be reached between complexity and the numbers of potential assignments. Therefore, we shall not adopt the classes proposed by NTIA.

57. The Commission explored the gains possible if stations with Class B facilities were assigned in Zone II and protected to the proposed 1 mV/m contour (*i.e.*, denoted as Class C2).[37] We also explored the proposal to create additional classes of stations so that existing stations would receive protection more in keeping with the service rendered. The FCC computer studies examined the number of assignments possible if three new classes (B1, C2, C1) of stations were added. Thus, separate classes were studied for the two zones: Classes A, B1, and B in Zones I and I–A and Classes A, C2, C1 and C in Zone II. These studies assumed protection of existing stations equal to that embodied in the present separation requirements. This option found that availability would only be 43%, compared to the 41% expected by permitting Class A stations to operate on Class B/C channels (Option 4 versus Option 2). However, the study also indicated that the stations assigned could operate with greater facilities. An additional 11 Class B1, 46 Class C2, and 16 Class C1 stations were found (see Table II of Appendix B).

58. Because the larger class of station represents improved efficiency in terms of service-rendered compared to interference-caused, the Commission is convinced that adopting these additional classes of stations would be beneficial.[38] We believe that allowing stations with Class B facilities with modified separation requirements in Zone II (Class C2) and creating intermediate classes of stations (Classes B1 and C1) that serve larger areas than Class A stations represent major benefits in terms of spectrum efficiency.

59. *Option 5, Uniform Protected Contour (1 mV/m).* Several parties submitted detailed showings indicating that changing the minimum separation requirements to represent a uniform 1 mV/m protected service contour could severely limit a station's primary service range, especially that of Class B stations. Metromedia and various other parties pointed out that there were specific reasons for Class B stations currently being based on a 40 mile service range. They noted that, in 1963, the Commission found that the large metropolitan communities of the northeast averaged 33 to 40 miles in radius. They argued, therefore, that a minimum limit of 33 miles for Class B stations was totally unacceptable for many communities located in Zone I. ABES stated that such a reduction would be a 32% loss in primary service area for Class B stations and, in one particular case, a loss in population of 175,000 persons for each station located at Indianapolis, Indiana.

60. ABC and others argued that a 1 mV/m protected contour was previously considered and rejected in 1963 in Docket No. 14185. They noted that the Commission refused to create a squeezed-in service by "protecting only the 1 mV/m contour." Cox submitted that reducing the minimum spacing would create a system similar to the AM service and would waste FM's unique potential for wide-area service. ABC claimed that this proposal would not represent any appreciable increase in new FM assignments because only one addition in the A.D. Ring study was due to reduced separation requirements. Because the other proposals yielded greater numbers of potential FM additions, it argued that the uniform protection proposal would not be instrumental in providing for additional FM assignments in needy areas. NTIA in reply claimed that both Class A and Class C stations "have done well" with a 1 mV/m protected contour and suggested that Class B stations "should be able to also." They argued that a decrease in separations would allow new stations at intermediate distances.

61. ABES focused on the impact of the protection of mobile receivers and submitted detailed analyses of several situations in the northeast where several stations are spaced less than the minimum separation requirements. It claimed that the resulting protection of only the 1 mV/m contour in these cases has made matters so severe as to render many signals "unlistenable." Consequently, reducing the minimum separation requirements would result in similar areas where only garbled signals could be received. Because more cities have acquired "New York City-like" architecture that causes increased signal reflection and diffraction since the present distance separations were developed, it suggested the Commission avoid any action that would increase interference to these receivers. ABES stated that in today's environment (*i.e.*, tree-lined highways, bridge abutments, super-highway signs, downtown buildings, etc.), "[t]he desired signal is subject to very rapid changes in level, beyond the ability of the receiver signal "leveling" or automatic volume control to avoid." It further cited cases in New York City, Philadelphia, and along the U.S. Route 1 corridor where co-channel and first adjacent channel stations located at less than minimum spacings have resulted in many cases of "limited coverage within myriads of interference." Thus, ABES argued that greater protection is needed and the distance separations should not be decreased.

62. The Commission recognized in the *Notice* that this proposal would have a substantial impact on the primary service area of existing Class B stations. Because the present separation requirements for Class A and Class C stations afford protection to approximately the 1 mV/m contour (at .912 and 1.023 mV/m, respectively, using current propagation curves), they are, for the most part, unaffected by the proposed change. For the Class B station, however, this proposal would reflect a change from the .524 mV/m to the 1.0 mV/m field strength contours or a decease in primary service range from 40 miles to 33 miles. The *Notice*, however, questioned whether the increases in availability justified reducing the Class B stations' primary service area. The majority of the commenting parties, citing the A.D. Ring study statistic of only 1 addition, argued the negative. The FCC computer studies, on the other hand, revealed that availability would increase from 43% (Option 4) to 55% with this proposal. Thus, 110 of the 200 study locations would be provided an opportunity for additional outlets instead of 86 (see Table I of Appendix B). Also, the number of stations allowed at these communities would increase from 235 to 332. This new availability, unlike the other proposals under consideration,

[37] Since the Class B minimum separation requirements depend upon the zone of operation, stations operating with Class B facilities in Zone II will be termed Class C2 to avoid confusion with Class B facilities in Zone I.

[38] Efficiency according to Docket No. 14185 is defined as: Eff. = 363 × (R/S)^2, where R is the primary service radius of a station and S is the spacing between stations [see *Notice of Inquiry, Notice of Proposed Rule Making, and Memorandum Opinion and Order* at paragraph 39]. Thus, the efficiency of co-channel Class C1 stations is 32%, while co-channel Class A stations are only 19% efficient.

would be at the expense of the primary service areas of existing stations. In view of this impact and because urbanized areas have grown since 1963, the argument against this proposal is most compelling. The Commission does not consider the incremental increase in availability to justify the loss of existing primary service areas. Again, balancing the total number of potential stations against the potential service rendered, we cannot justify reducing a station's expected service area at this time.[29]

63. *Option 6, Reclassification of Existing Stations.* The *Notice* further proposed to reclassify all existing stations, after a period of three years, according to their actual operating facilities. The Commission noted that many existing stations are operating substantially below the maximum facilities permitted. Because the minimum separation requirements assume maximum facilities, these stations preclude other FM stations from being authorized, yet do not furnish primary service over the area intended. The three year period was suggested to give each station the opportunity to explore its ability to increase facilities and submit an application for modification of its license.

64. NBC suggested that reclassification of stations where the need for mutual protection could be demonstrated should not occur. They argued that if existing stations chose to operate below minimum facilities, the new assignment "should protect all existing service areas." Metromedia did not technically oppose reclassification stating that "* * * it was a more reasonable approach than reduced distance requirements of providing increased service to the less populated areas in the West." Cox and several others, however, opposed this change, stating that part of FM's unique identity, which allows for future expansion, could be destroyed. They argued that existing licensees would be faced with an unappealing choice. They either would have to risk present economic investment to increase their facilities based on estimates of future community growth, or otherwise be foreclosed from realizing their full potential due to present circumstances. ABES and others noted that stations may not be operating with maximum facilities due not only to economic reasons, but for other reasons as well. They cited the Commission's multiple ownership restrictions (Section 73.240), FAA air hazard limitations, and local zoning restrictions as examples. Because many of these limitations restrict antenna heights, ABES suggested that stations be allowed to increase their power to attain the equivalence of operating with maximum effective radiated power (ERP) and antenna height above average terrain (HAAT).

65. The Commission realizes that many stations are operating at less than "full" facilities because of other Commission regulations, other government agencies' limitations, or restrictions of local jurisdictions. It is exactly this inconsistency, between the Commission providing for expansion when the possibility is virtually non-existent, that we wish to rectify. Rather than viewing reclassification as discriminatory, the Commission believes that recognizing actual facility limitations is a realistic means of allowing for additional outlets. In fact, we view the preclusion of new stations from relatively underserved communities by stations operating substantially below maximum facilities as being the real case of discrimination. Additional FCC computer studies verified that availability of new FM stations could increase from 43% to 57% if reclassification were considered (see Table III of Appendix B). Because a station's classification should reflect its potential, either by spacing requirements, economics, or government limitations, the Commission views reclassification as desirable.

66. The ABES' suggestion that stations unable to increase their antenna height be allowed to increase power to attain equivalence of a station operating at the maximum facilities was considered in Docket 14185 and rejected. The Commission stated "* * * an increase in power increases interference more than it does service. Therefore, we should obviously encourage improvement in service through greater antenna height rather than greater power, and affording an opportunity for power increase, without limit or at least to a greater extent, would work in the other direction." [*First Report and Order* at para. 79] Because this argument is true today, we must again reject this alternative.

67. *Time Permitted to Upgrade Facilities.* The *Notice* suggested that existing stations would be given three years to improve their facilities to the minimum for their class, before any reclassification took place. It further proposed that new Class C stations have a period of six years within which to reach minimum facilities before being reclassified. Since these two proposals consistently were confused, an explanation appears in order. The first period of 3 years would apply to *all existing* licenses, construction permits, or applications that were authorized, or on file, on the effective date of this order. Thus, one announced date would be used for evaluating the facilities of existing stations. The later proposal would continually be permitted when *future Class C* applications were authorized. Because the Class C stations would be the only class with a minimum antenna height requirement, this time would provide new Class C stations with an initial opportunity to obtain revenue before possibly constructing a large antenna tower.

68. The comments failed to provide any specific data that would support a deadline either longer or shorter than those proposed in the *Notice.* ABC argued that three years may be inadequate for licensees to reach any minimum operating requirements. They suggested that the Commission authorize liberal extensions of any deadlines. NTIA fully supported reclassification and submitted 24 months (2 years) as a more than adequate time for expansion. However, the reply comments of Cox/Multimedia urged that 2 years was an unrealistic time period to allow stations to make an application for a change in facilities. Several parties wished to have an unlimited time in which to effect the changes. Finally, the difference in the time permitted existing and future stations received no comment.

69. Lacking details, it is incumbent upon us to balance the public interest benefits of the new services possible after reclassification against the inconvenience to broadcasters. On balance, we believe that, for simplicity, a single date should apply to all instances. We cannot allow an open-ended time period continually to frustrate the opportunity to establish the new stations. Nor do we intend to provide time that is inadequate to consider and submit applications for facilities equal to or greater than the minimum for a class of station. In this regard, we emphasize that licensees can protect their classification merely by filing an application to upgrade their facilities. It is not necessary that the application be granted or the construction be completed by the deadline date. Additionally, we expect that any group seriously contemplating a new Class C service station should have good economic support and be able to begin operations with the larger facilities. Specifying a different six year

[29] As noted in comments submitted by Bob Zwick, the Commission is aware that the 1 mV/m contour may be located at a distance of 40 miles by allowing an increase in facilities for Class B stations. However, this suggestion would not foster the goal of increasing the availability of FM stations.

period for each new Class C authorization would create confusion and be administratively difficult to implement.

70. Based on a weighing of the benefits and inconveniences, and considering the delays in reaping the benefits of the other changes adopted herein, we will indicate a date three years from the effective date of this order by which *all* stations must apply for appropriate minimum facilities. After the 3 year time period for expansion has expired, a complete listing of the FM Table of Assignments will be published to indicate the new class designations that reflect the facilities authorized, or those for which an application has been filed.[30]

71. The Commission is also using the opportunity presented by this proceeding to modify its rules governing "major" and "minor" modifications of station authorizations. Currently, any modification that represents a change of 50%, or more, in the area within a station's predicted 1 mV/m field strength contour is considered a major modification of an authorized FM station. Because the distance separation requirements are based on using maximum facilities, we believe the procedure to increase facilities (that will be encouraged by adopting the reclassification proposal) could be greatly simplified. Therefore, we shall designate these changes as minor modifications.

Miscellaneous

72. *Preferences.* Many existing licensees of either Class A or short-spaced stations requested they be given preference in the assignment of any new channels which may become available. NPR and CPB also requested similar preferential treatment be afforded to educational, noncommercial entities in either the allotment or the assignment process.[31] ABC supported establishing assignment priorities including favoring applicants that seeks to convert daytime only AM stations to fulltime local outlets. Several licensees of short-spaced stations submitted detailed examples of how mutual interference problems have curtailed their primary service areas. They also requested preference in the use of any new allotment that could alleviate their present circumstances.

73. The Commission is not convinced that this proceeding is the best vehicle for considering preferences of this type. It has focused on FM allotment matters rather than questions of channel usage by a particular entity or group. We believe these questions are more appropriately considered in separate rule making proceedings focused on licensing policies rather than allotment rules. For example, we note that the outstanding *Notice of Inquiry and Notice of Proposed Rule Making* in BC Docket No. 82-538, has asked for comments on the desirability of providing licensees of daytime—only AM stations a preference for the use of any FM allotments that might become available in their communities. 47 FR 38937 (published September 3, 1982). We believe that preferences for daytime—only AM licensees, existing short-spaced FM licensees and other worthy groups are best resolved in proceedings specifically devoted to such matters.[32]

74. *Puerto Rico.* Portorican American Broadcasting Co. requested special consideration of the problems encountered in Puerto Rico because of terrain. It submitted a detailed explanation of the difficulties experienced trying to improve the facilities of its FM station WOQI, Ponce, Puerto Rico, by changing its transmitter site. It urged the Commission to allow flexibility for existing stations to improve their service before permitting additional outlets on the island.

75. The Commission again is reluctant to consider rule changes for individual situations. Instead, we prefer to account for any specific problems through the present processing methods. In reviewing Portorican's comments, we note that its request involves a waiver to locate at less than minimum spacings to existing FM stations on the island. Further, it urges grant of the waiver using calculations employed in the noncommercial, educational section of the rules (§ 73.509), which is based on protection of existing contours. Inequities because of terrain in Puerto Rico were addressed in the *Fourth Report and Order* (Docket No. 14185) adopted in 1964 and again in a recent *Report and Order* (BC Docket No. 81-421). We prefer to continue this pattern and will address any particular problems that are unique to Puerto Rico in separate proceedings when needed.

76. *Aviation.* The Commission also had a request by ARINC and AOPA to recognize potential increases in interference to aeronautical navigation and communication services that are immediately adjacent to the FM broadcast band at 108–136 MHz.[33] AOPA noted that according to its surveys 43 locations currently experience interference and "innumerable" other cases have had to be rectified through reassignment of aeronautical frequencies. Both argued that the proposals set forth in the *Notice*, except for Class A additions, would have an adverse impact on aviation. They and the FAA also expressed concern over the encouragement of tall antenna towers, especially of Class C stations, that intrude into navigable airspace.

77. The problem of potential interference to avionics by FM stations is well known to the Commission. It has been handled satisfactorily in the past via coordination procedures with the FAA, and we are confident that any potential interference problems can continue to be handled effectively. Finally, we note that the minimum requirement for antenna height above average terrain (HAAT) is not a requirement on the antenna tower structure itself. Thus, it is difficult to estimate the problems that could arise due to the Class C minimum HAAT requirement. Antenna tower heights normally are supplied to the FAA at the application stage when individual antenna height above ground is known. This procedure should continue to enable us to sort out any potential problems due to tower heights.

78. *Existing short-spaced stations.* Short-spaced stations are those licensed prior to adoption of the minimum distance separation requirements that failed to meet the new spacings (*Fourth Report and Order* in Docket No. 14185). ABES urged the Commission to correct the defects adopted for consideration of short-spaced stations in Docket No. 14185 (see Section 73.213). They recommended that the short-spaced station rules be amended to accord full

[30] The Commission does not consider reclassification as a modification of a station's license. Because the license authorizes only the station's actual facilities, it would not have to be altered in anyway. Reclassification is merely the re-designation of a station's potential status in a geographic table of channel reservations. Even if our action could be construed as a license modification, the record adduced in response to present *Notice* is entirely sufficient to explore licensees' concerns, and they would not be entitled to separate hearings based upon reclassification. See, *WBEN, Inc.* v. *U.S.*, 396 F. 2d 601 (2nd Cir. 1968)

[31] NPR specifically requested individual channels be reserved for future use in communities lacking adequate public radio service.

[32] We recognize that many licensees of existing stations, including AM daytime stations, will be interested in seeking the use of the new FM allotments that will be available as a result of this proceeding. In light of this interest, and in recognition of the valuable community service that these licensees have provided, we intend shortly to issue a Notice of Proposed Rule Making proposing procedural means to facilitate such improvements of existing service.

[33] These parties indicated that interference to aviation services can be caused by intermodulation products of two or more FM broadcast signals or by the combined field strengths from high powered FM stations causing receiver desensitization.

protection from second and third adjacent channel interference. They suggest these cases be administered in a manner similar to the educational rules (Section 73.509), where actual signal strengths are used to determine allowable radiation.

79. The *Notice* stated that the rules governing existing short-spaced stations would be examined later if necessary. In the meantime we have determined that short-spaced stations shall continue to be subject to the existing rules. If these stations are reclassified, separation will be based on their previous class of station.

80. *Implementation.* The Commission is aware of the tremendous interest many groups and individuals have in the outcome of this proceeding. Since the *Notice* was adopted, status inquiries have been made on a daily basis. These contacts and our own investigations lead us to believe that a pent-up demand will be unleashed after adoption of the rule changes outlined above. Our goal is to respond to requests for new allotments as quickly as possible and minimize the backlog of mutually exclusive petitions. Proceedings addressing such petitions take considerably longer to resolve and place greater demands on the Commission's legal and technical staff than the routine uncontested proceedings. To facilitate prompt service to the public, we also desire to process applications quickly.

81. Unfortunately, our present staff resources are not adequate to respond in a reasonable time even if our expectation of demand is grossly overstated. Consequently, we will delay the effective date of the new rules until sufficient staff is available to handle the increased workload.[34] When additional resources are made available, the Commission will begin modifying its computer programs to permit the use of the new rules. At the same time, we shall institute a rather large scale rule making to amend the FM Table of Assignments using approximately 500 locations from the "needs" list compiled for the Region 2 Conference on AM broadcasting.

82. That rule making will request the public to indicate interest in the proposed assignments or to propose alternative assignments by the comment date. Only in that manner can the Commission avoid receiving an overwhelmingly large number of petitions on the effective date of the new rules. We believe our course of action is preferable since it allows us to maintain control over the initial proposals and any counter proposals that may be made. Similarly, we shall attempt to avoid the filing of a large number of applications for new allotments which might occur if a single Report and Order were adopted that addressed them *in toto*. Therefore we shall adopt a series of Reports and Orders addressing the proposed allotments in individual groups. In this manner, applications should be effectively metered to correspond to the Commission's staff resources.

83. Upon completion of the omnibus proceeding, other FM petitions for amendment of the Table will be accepted and considered. Before the effective date of the new rules, any petitions or applications that do not conform to the "old" rules will be returned. The Commission regrets that this unusual procedure is necessary. However, we must be in a position to address petitions and applications upon the effective date of the new rules and no suitable alternative exists given our present resources.

84. *Metrication.* As indicated in the *Notice*, we believe that this would be an appropriate time to convert the FM broadcast service to the International System of Units in order to conform to the Commission's program for conversion of all our rules to metric (see Public Notice, FCC 76-737, July 28, 1976). The Commission believes the conversions should be realistic values of "convenient" metric figures rather than a simple multiplication by the appropriate factor. For example, antenna height maxima will be 100, 150, 300, and 600 meters rather than the 92, 153, 305, and 610 meters proposed.[35] In all cases, the metric term shall be the determining factor in any discrepancies. Also, the rules adopted today will govern any disputes that may arise and will take precedence over any other rule sections which may refer or relate to the changes being made herein.[36] Obviously, all circumstances cannot be anticipated. Therefore, the Commission will offer continuing guidance on this subject as appropriate.

Conclusion

85. Since certain modifications can be made without affecting the primary service areas of existing stations and there appear to be many underserved locations, the Commission is persuaded that changes to the FM allotment rules are appropriate. Therefore, we shall: (1) Allow Class A stations to operate on all channels, (2) authorize three new classes of stations, and (3) reclassify existing stations, after a period of three years, according to their operating facilities.

86. Although every effort has been made to hold constant the present degree of expected service, a station's existing predicted primary service area may change slightly due to the introduction of new classes of stations, reclassification, or conversion to the International System of Units. Any subsequent additions to the FM Table of Assignments resulting in the operation of new stations will be in accordance with the rules established herein, and as such their operation will not constitute a modification of existing licenses under Section 316 of the Communications Act of 1934, as amended. *WBEN, Inc. v. United States*, 396 F. 2d 601 (2nd Cir. 1968). Accordingly, hearings at the time of actual individual changes are not required and are not anticipated. In view of the detailed nature of this proceeding, we are confident that the Mass Media Bureau expeditiously can resolve disputes which may arise as a result of the conversion process. Accordingly, we delegate to the Chief, Mass Media Bureau, such authority.

87. Because the Commission wishes to adopt new classes of stations but reject the uniform protection standard of 1 mV/m (60 dBu), slight adjustments have been made to the proposed facilities of the new classes of stations. Although three additional classes (Class B1, B, and C1) were proposed for Zone II, we believe that the two chosen offer approximately the same variety as the three intended under the uniform protection standard.[37] Therefore, the

[34] The Senate Commerce Committee has already recommended an increase in the Commission's FY 1984 budget to specify funds for the processing of FM petitions and applications received because of rule changes made in the instant proceeding. The House Appropriations Committee has also recommended additional FY 1984 funds to increase the staff to respond to the anticipated increased workload.

[35] We recognize that some requirements will increase while others will decrease. However, conversion to convenient numbers is preferred notwithstanding any slight modifications that may result. Of course, all stations operating with facilities in excess of the maximums adopted will be permitted to continue operating with their existing facilities.

[36] All factors have been converted to the appropriate decimal place of their metric equivalent. For convenience, some conversion factors are listed below:

meters = .3048 x feet
kilometers = 1.609 x miles
square kilometers = .386 x square miles

[37] The definition of Class C1 was kept in order to avoid confusion with the Canadian Class C1 that also is allowed 100 kW ERP and 300 meters HAAT. This results in Class C2 denoting a smaller facility station than Class C1. Although the Class C2 would be allowed the same facilities as a Class B station, its service radius would only be 52 kilometers (32 miles) rather than the 64 kilometer (40 mile) range of the Class B.

following is a summary of the classes, maximum facilities, allowed zone, and, for reference only, the approximate co-channel primary service ranges and resultant field strengths:

Station class	Maximum facilities kW & m (ft)	Permitted zone	Service radius km (mi)	Field service mV/m (dBu)
A	3 and 100(328)	1 and 2	24(15)	1.0(60)
B1	25 and 100(328)	1	45(28)	.7(57)
B	50 and 150(492)	1	64(40)	.5(54)
C2	50 and 150(492)	2	52(32)	1.0(60)
C1	100 and 300(984)	2	72(45)	1.0(60)
C	100 and 600(1968)	2	92(57)	1.0(60)

88. NTIA also suggested that minimum facilities be based on the distance to the 1 mV/m (60 dBu) contour. Although this coverage is an important consideration, the determining factor must be a station's authorized power and minimum antenna heights are, in most cases, unduly restrictive. The Commission continues to believe that the city grade signal requirement is normally the best way to enforce minimum areas of service. Only Class C stations will have a minimum antenna height requirement to exceed the Class C1 maximum of 300 meters (984 feet). Some parties expressed the opinion that this would be a discriminatory policy toward Class C licensees. ABES and others questioned the choice of the minimum height requirement for Class C stations and said that simply choosing one-half the existing maximum height was arbitrary. The Commission, however, is convinced from its own records and the data submitted by NTIA that an antenna height of 600 meters (1968 feet) HAAT is an unrealistic expectation for most of the country. While we do not wish to foreclose the possibility of this extended coverage station altogether, the Commission believes that, since 80% of the Class C facilities operate below the Class C1 requirements, recognizing this condition via a minimum antenna height is completely justifiable.

89. On the other hand, we are attempting to better define a station's class based on its operating facilities. Since the station should clearly belong to one class of station, minimum power requirements will be set as proposed. Therefore, the minimum power per class must exceed the maximum of the next lower class for its zone, except for Class A stations which will continue to have a minimum requirement of 100 watts.

90. The Commission also is adopting an amended distance separation table to incorporate the new classes of stations. New separations are inserted for the new class relationships that recognize that interference within the primary service ranges for each class of station does not exceed an undesired to desired ratio of 1:10 (–20dB) for co-channel stations and 1:2 (–6dB) for first-adjacent channel stations. The existing co-channel and first adjacent channel separations are the approximate metric equivalent rounded off to the nearest kilometer. The second and third adjacent channel separations represent either the existing spacings converted to kilometers or the "guardband compromise" of not allowing the undesired signal to exceed the desired signal by 100:1 (40 dBu) within the desired station's primary service range, whichever is greater. Finally, the distances for stations separated by 53 or 54 channels correspond to those of the major station classification as proposed in the *Notice*.

91. Those allotments and assignments which are within 320 kilometers (199 miles) of the Canadian or Mexican border must conform to the requirements specified in the FM Broadcast Agreement existing between the United States and the respective country. Since the present agreements do not acknowledge Class B1, Class C2, and, in the case of Mexico, Class C1 stations, these classes of stations must meet the criteria of the Class B or Class C station classes. Thus, the new distance separation requirements are presented in three separate tables depending upon whether the allotments and assignments to be considered are located in the United States, Canada, or Mexico.

92. According to the definitions adopted at the 1979 World Administrative Radio Conference (WARC) of the International Telecommunications Union, the term "allotment" rather than "assignment" more closely identifies the designation of a frequency or channel for use in a specific geographic area. Assignment is the authorization of a radio frequency channel for use by an entity under specific conditions. Thus, a channel may be *allotted* to a community or place but *assigned* to a licensee. A plan of potential channel designations should be referred to as Table of Allotments. The rules will be amended to denote the Table as the: Table of FM Allotments.

93. In view of the foregoing, IT IS ORDERED, pursuant to the authority of sections 4(i), 303(f), (g) and (r) and 307(b) of the Communications Act of 1934, as amended, that the rules are amended as set forth in the attached Appendix C, effective on the date specified in a future public notice issued by the Commission indicating that resources have been made available for implementing the new rules (see paragraphs 80 thru 83, *supra*).

94. It is further ordered, That this proceeding is terminated. For further information on this matter contact Kathryn S. Hosford, Mass Media Bureau (202) 632–9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Summary of Commenting Parties

Comments in response to the *Notice* were filed by a number of parties. Detailed comments on all aspects of the *Notice* were submitted by : American Broadcasting Companies, Inc. ("ABC"); Metromedia, Inc. ("Metromedia"); Association for Broadcast Engineering Standards, Inc. ("ABES"); National Telecommunications and Information Administration ("NTIA"); Multimedia, Inc. ("Multimedia"); Cox Broadcasting Corporation ("Cox"); National Broadcasting Company, Inc. ("NBC"); and National Association of Broadcasters ("NAB").

General indications of support were submitted by: the United Church of Christ ("UCC"); National Public Radio ("NPR"); several licensees of daytime-only AM stations and Class A FM stations; persons and groups interested in becoming licensees of FM broadcast stations ("new-entry candidates"); and an extensive showing was provided by Bob Zwick.

Comments opposed to the proposals contained in the *Notice* were filed by: CBS, Inc. ("CBS"); National Radio Broadcasters Association ("NRBA"); Pennsylvania Association of Broadcasters ("PAB"); General Electric Broadcasting Company, Inc. ("GEBCO"); Gill Cliff Radio Consultant ("Gill Cliff"); several broadcast interest groups, network affiliates, and a number of existing FM station licensees.

Comments addressing specific concerns were submitted by : AGK Communications, Inc. ("AGK"); Capital City Broadcasting Company ("Capital"); Portorican American Broadcasting Co., Inc. ("Portorican"); Federal Aviation Administration ("FAA"); Aeronautical Radio, Inc. ("ARINC"); and Aircraft Owners and Pilot Association ("AOPA").

Reply comments were submitted by ABC, NTIA, ABES, NAB, PAB, Cox and Multimedia jointly ("Cox/Multimedia"); National Black Media Coalition

("NBMC"), Consumer Electronics Group of the Electronic Industry Association ("EIA"), Corporation for Public Broadcasting ("CPB"), several existing radio licensees, and new-entry candidates.

In response to re-opening the record, further comments were submitted by EIA, NAB, Cox/Multimedia, ABC, National Association of Black Owned Broadcasters ("NABOB"), Westinghouse Broadcasting and Cable, Inc. ("Group W"), and Fredrick W. Seibold, licensee of WITT(FM), Tuscola, Illinois (late-filed).

NAB was the only party to submit *ex parte* comments on the general content of the studies following the Commission's refusal to reopen the comment period again.

Appendix B—FCC Computer Studies

1. The Commission examined the proposals individually to determine the number of new assignments each would allow. The locations studied were selected from the Station Requirements List adopted by the Second Session of the Administrative Conference on AM Broadcasting in Region 2.[38] For FM service evaluations, we selected 1,000 of the largest populated entries from the sequenced list and created a rotating sublist consisting of:

(a) 381 communities which have only a daytime AM station and are located greater than 10 miles from cities of at least 25,000 persons;

(b) 243 communities of at least 2,500 persons which have no local radio assignment and are located greater than 10 miles from cities of at least 25,000 persons;

(c) 257 communities for which the National Black Media Coalition asserts the existence of a need for minority-owned stations (Black, Hispanic, Indian or Asian-American); and

(d) 119 communities in need of noncommercial radio assignments that cannot be satisfied in the reserved portion of the FM band (88–92 MHz) as submitted by National Public Radio.

2. The Commission conducted three separate evaluations using the 1,000 entries, at 923 different communities, contained on this sublist. The first evaluation consisted of studying the first 200 entries and determining the number of allotments possible under each of the proposals contained in the *Notice*.[39] The findings may be summarized as follows:

TABLE I

Options[1]	Number of		Availability* (percent)
	New stations	Locations	
1. Existing rules, or *status quo*	57	15	7
2. Class A stations on Class B/C channels	231	82	41
3. Class B stations in Zone II	231	82	41
4. Additional classes of stations	235	86	43
5. Uniform protected contour (1 mV/m)	332	110	55
6. Reclassification of existing stations	491	122	61

* Figures in this column denote the percentage of locations for which at least one new outlet would be permitted (*e.g.*, allotments are available to 15 of the 200, or 7%, of the study locations under the existing rules).

[1] The results reflect those additions possible as each option assumes the acceptance of the previous option. That is,

Option 2 varies from the present situation by allowing Class A stations to operate on Class B/C channels;

Option 3 permits Option 2 *and* assumes that Class B stations may operate in Zone II;

Option 4 permits Option 3 *and* assumes that Class B1, C2, and C1 stations are allowed;

Option 5 permits Option 4 *and* assumes the new minimum spacings are based on a uniform 1 mV/m protected contour;

Option 6 permits Option 5 *and* assumes reclassification of all stations according to their existing facilities.

For example, the data indicates that Option 6, which includes reclassification of existing assignments, permits 159 more allotments at 12 additional locations, or a 6% increase in availability, compared to Option 5.

3. Since spectrum efficiency is enhanced when stations have relatively large coverage areas, the class of station is an important consideration and each option noted the number of each class permitted:

TABLE II

Options	Classes of stations				
	A	B1	B/C2	C1	C
1. Existing Rules, or *status quo*	29	.....	7	.....	21
2. Class A stations on Class B/C channels	209	.....	7	.....	21
3. Class B stations in Zone II	191	.....	19	.....	21
4. Additional classes of stations	134	11	53	16	21
5. Uniform protected contour (1 mV/m)	167	71	56	14	24
6. Reclassification of existing stations	208	110	102	45	26

4. To determine if the initial 200 entries studied were an acceptable sample size and representative of the entire country, a second evaluation was performed. All 1000 entries were analyzed for the "existing rules" (Option 1) and the "additional classes of stations" (Option 4) alternative. This study found that the existing rules (Option 1) allow 497 new stations at 158 locations (15%), while Option 4 allows 1500 new stations at 546 locations (54%). The percentage increase for the 1000 entry study compared to the 200 entry study may be determined by deleting from both studies the locations satisfied under the existing rules *(i.e.*, those locations common to both options were removed from the examination samples). Thus, of the 842 locations under Option 4 where a new outlet could not be found under the existing rules, 388 or 46% could have at least one new station added. The initial 200 study examination, on the other hand, indicated that of the 185 locations where a new outlet could not be found under the existing rules, 71 or 38% could have at least one new station added if Option 4 was selected. Thus, the 200 study examination appears conservative (38% versus 46%) and estimates based on these studies should be reliable for nation-wide judgments.

5. A final evaluation was performed to estimate the value of reclassification if the 1 mV/m contour proposal (Option 5) was excluded from consideration. A study of the 200 entries for this version (revised Option 6 permits Class A stations on B/C channels, three additional station classes, plus reclassification) indicated that a total of 425 new stations could be dispersed among 114 locations, or an availability of 57%. Compared to the 43% availability expected by those modifications represented by Option 4, reclassification affords increased new opportunity for establishing additional FM stations even if Option 5 was dismissed.

6. In conclusion, the number of FM stations possible for the 200 entries

[38] A list of potential station requirements for various countries in the Western Hemisphere was submitted to the Region 2 conference held in November and December, 1981. (See *List of Requirements Concerning Stations to be authorized between 1 January 1983 and 31 December 1987*; Appendix to Document No. 19–E, 16 October 1981.) Each location on the list, consisting of 3,864 entries for the United States, represented an "instance of asserted need." In other words, the entries indicated locations of potentially desirable aural services that are not now provided. The list identified nearly 3,000 communities having no local aural services, containing daytime AM stations, or needing minority-owned or public radio stations. For purposes of evaluations, the Commission arranged the list in order of most pressing need. The list or its order, however, does not reflect any *a priori* preferences on the Commission's part for one community over another.

[39] The computer program initially found all potential FM channels which could be added to each entry for the various proposals under consideration. It then integrated these choices into unified plans which could be added to the existing Table of Assignments. The program assigned one allotment per entry before "looping" to assign the second, third, etc. to each entry. Some communities, by virtue of being on several "needs" lists, actually enjoyed multiple allotments at the conclusion of the first loop. The program made no attempt to optimize the number of additions. No consideration of the tradeoff between a channel allotted to a community at the beginning of the list versus the channels available for communities appearing later in the list was performed.

studied considering the modifications being adopted can be summarized as follows:

TABLE III

	Number of		
	New stations	Locations)	Availability (percent)
Existing rules, or status quo	57	15	7
Modified rules:			
If all stations increased facilities	235	86	43
If no stations increased facilities	425	114	57

BILLING CODE 6712-01-M

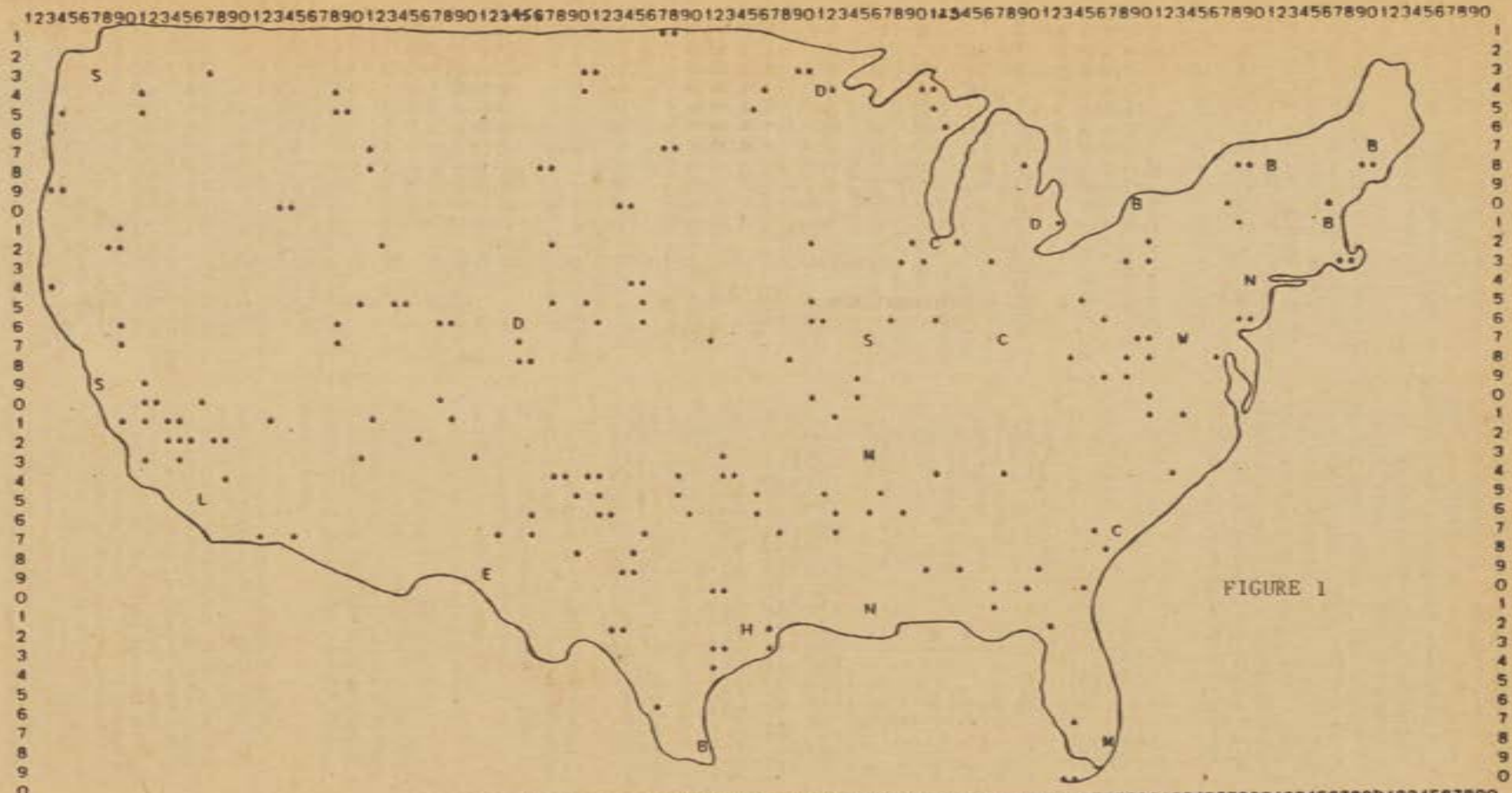


FIGURE 1

OPTION 1 -- PRESENT RULES
CENTER COORDINATES = 37.0000/ 95.0000

MILES PER DEGREE LATITUDE = 69.0
MILES PER DEGREE LONGITUDE = 55.3

THERE ARE A TOTAL OF 188 DOTS REPRESENTING 495 OCCURRENCES

MARK B AT LINE	7,	COL 120	IS FOR BANGOR	ME	MARK B AT LINE	11,	COL 116 IS FOR BOSTON	MA
MARK B AT LINE	8,	COL 111	IS FOR BURLINGTON	VT	MARK B AT LINE	10,	COL 99 IS FOR BUFFALO	NY
MARK N AT LINE	14,	COL 109	IS FOR NEW YORK	NY	MARK W AT LINE	17,	COL 103 IS FOR WASHINGTON	DC
MARK C AT LINE	27,	COL 97	IS FOR CHARLESTON	SC	MARK M AT LINE	38,	COL 96 IS FOR MIAMI BEACH	FL
MARK N AT LINE	31,	COL 75	IS FOR NEW ORLEANS	LA	MARK M AT LINE	23,	COL 75 IS FOR MEMPHIS	TN
MARK C AT LINE	17,	COL 87	IS FOR CINCINATI	OH	MARK S AT LINE	17,	COL 75 IS FOR ST LOUIS	MO
MARK D AT LINE	11,	COL 90	IS FOR DETROIT	MI	MARK C AT LINE	12,	COL 81 IS FOR CHICAGO	IL
MARK D AT LINE	4,	COL 71	IS FOR DULUTH	MN	MARK D AT LINE	16,	COL 44 IS FOR DENVER	CO
MARK H AT LINE	32,	COL 64	IS FOR HOUSTON	TX	MARK B AT LINE	38,	COL 60 IS FOR BROWNSVILLE	TX
MARK E AT LINE	29,	COL 41	IS FOR EL PASO	TX	MARK L AT LINE	25,	COL 16 IS FOR LOS ANGLES	CA
MARK S AT LINE	19,	COL 7	IS FOR SAN FRANCISCO	CA	MARK S AT LINE	3,	COL 7 IS FOR SEATTLE	WA

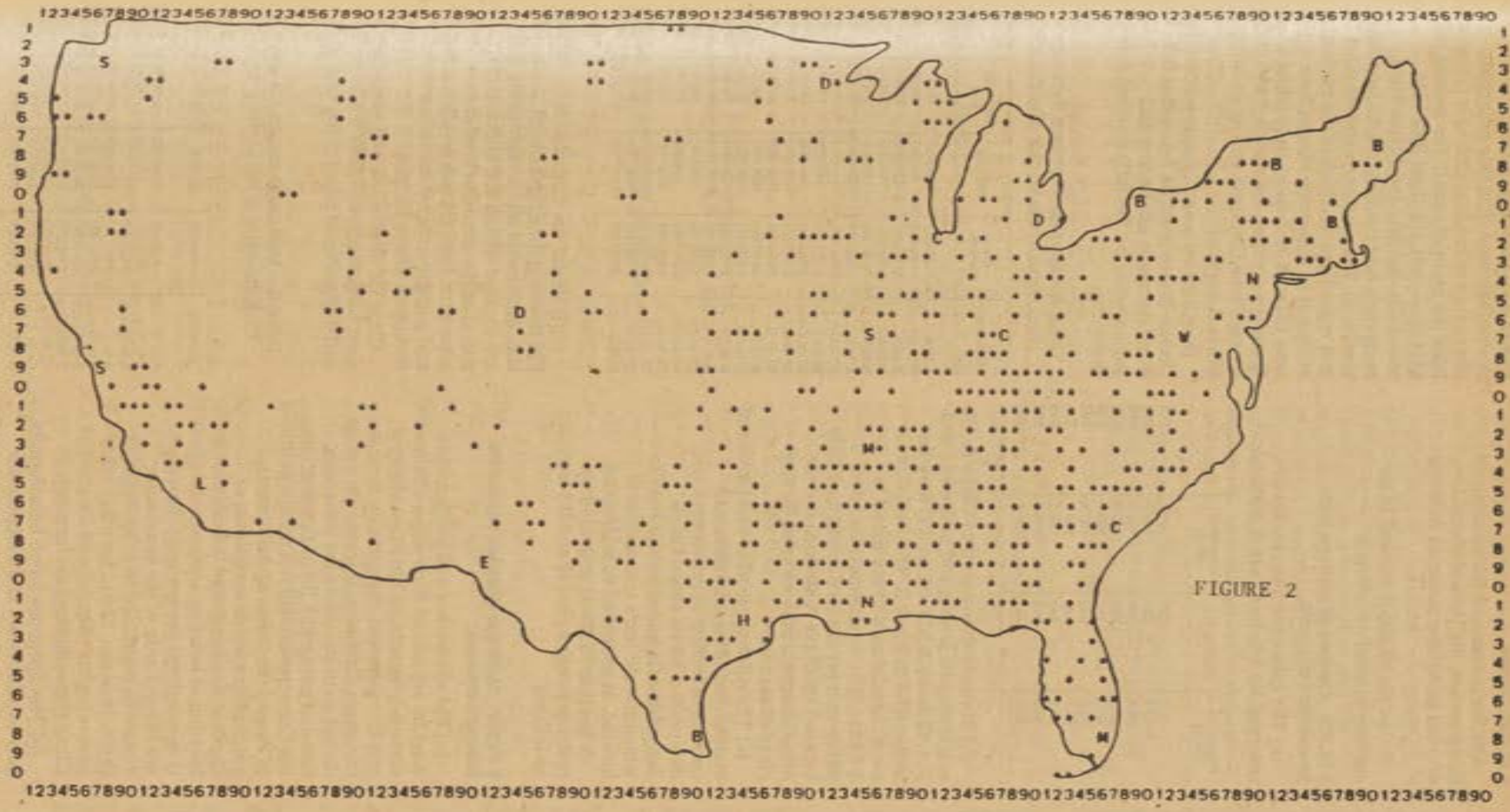


FIGURE 2

OPTION 4 -- PRESENT A,B,C; INSERT B1,C2,C1 & A-B/C - MILES PER DEGREE LATITUDE = 69.0
CENTER COORDINATES = 37.0000/ 95.0000 MILES PER DEGREE LONGITUDE = 55.3

THERE ARE A TOTAL OF 572 DOTS REPRESENTING 1494 OCCURRENCES

MARK B AT LINE	7,	COL 120	IS FOR BANGOR	ME	MARK B AT LINE	11,	COL 116	IS FOR BOSTON	MA
MARK B AT LINE	8,	COL 111	IS FOR BURLINGTON	VT	MARK B AT LINE	10,	COL 99	IS FOR BUFFALO	NY
MARK N AT LINE	14,	COL 109	IS FOR NEW YORK	NY	MARK W AT LINE	17,	COL 103	IS FOR WASHINGTON	DC
MARK C AT LINE	27,	COL 97	IS FOR CHARLESTON	SC	MARK M AT LINE	38,	COL 96	IS FOR MIAMI BEACH	FL
MARK N AT LINE	31,	COL 75	IS FOR NEW ORLEANS	LA	MARK M AT LINE	23,	COL 75	IS FOR MEMPHIS	TN
MARK C AT LINE	17,	COL 87	IS FOR CINCINATI	OH	MARK S AT LINE	17,	COL 75	IS FOR ST LOUIS	MO
MARK D AT LINE	11,	COL 90	IS FOR DETROIT	MI	MARK C AT LINE	12,	COL 81	IS FOR CHICAGO	IL
MARK D AT LINE	4,	COL 71	IS FOR DULUTH	MN	MARK D AT LINE	16,	COL 44	IS FOR DENVER	CO
MARK H AT LINE	32,	COL 64	IS FOR HOUSTON	TX	MARK B AT LINE	38,	COL 60	IS FOR BROWNSVILLE	TX
MARK E AT LINE	29,	COL 41	IS FOR EL PASO	TX	MARK L AT LINE	25,	COL 16	IS FOR LOS ANGLES	CA
MARK S AT LINE	19,	COL 7	IS FOR SAN FRANCISCO	CA	MARK S AT LINE	3,	COL 7	IS FOR SEATTLE	WA

BILLING CODE 6712-01-C

Appendix C

PART 73—[AMENDED]

1. Section 73.202 is amended by revising the headnote, paragraph (a) and the heading title of paragraph (b) to read as follows:

§ 73.202 Table of Allotments.

(a) *General.* The following Table of Allotments contains the channels (other than noncommercial educational Channels 201–220) designated for use in communities in the United States, its territories, and possessions. All listed channels are for Class B stations in Zones I and I–A and for Class C stations in Zone II unless otherwise specifically designated.

(1) Channels designated with an asterisk may only be used by noncommercial educational broadcast stations. Noncommercial educational FM allotments (Channels 201–220) available for use in various communities in Arizona, California, New Mexico, and Texas are listed in § 73.504. The rules governing the use of noncommercial educational channels in other communities are contained in § 73.501

(2) Each channel listed in the Table of Allotments reflects the class of station that is authorized, or has an application filed, to use it based on the minimum and maximum facility requirements for each class contained in § 73.211.

Note.—The provisions of this subparagraph [(a)(2)] become effective [3 years from the effective date of the Report and Order in BC Docket 80–90.].

(b) *Table of FM Allotments.*

* * * * *

2. Section 73.203 is revised in its entirety to read as follows:

§ 73.203 Availability of channels.

Applications may be filed to construct FM broadcast stations only at the communities and on the channels contained in the Table of Allotments (§ 73.202(b)). Applications that fail to comply with this requirement, whether or not accompanied by a petition to amend the Table, will not be accepted for filing. However, applications specifying channels that accord with publicly announced FCC orders changing the Table of Allotments will be accepted for filing even though such applications are tendered before the effective dates of such channel changes.

3. Section 73.204 is added to read as follows:

§ 73.204 International agreements and other restrictions on use of channels.

See §§73.207, 73.220, and 73.1650.

4. Section 73.205 is amended by revising the introductory text to read as follows:

§ 73.205 Zones.

For the purpose of allotments and assignments, the United States is divided into three zones as follows:

* * * * *

5. Section 73.206 is revised in its entirety to read as follows:

§ 73.206 Classes of stations and permissible channels.

(a) The following frequencies are reserved for use by Class A stations:

Frequency (MHz)	Channel No.	Frequency (MHz)	Channel No.
92.1	221	100.1	261
92.7	224	100.9	265
93.5	228	101.7	269
94.3	232	102.3	272
95.3	237	103.1	276
95.9	240	103.9	280
96.7	244	104.9	285
97.7	249	105.5	288
98.3	252	106.3	292
99.3	257	107.1	296

(b) Stations designated as Class A, B1, and B may be authorized in Zones I and I–A. Classes A, C2, C1, and C may be authorized in Zone II. The facilities for each class of station are listed in § 73.211. The 20 channels listed in paragraph (a) of this Section may only be used by Class A stations but the other channels may be used by any class of station.

(c) The rules applicable to a particular station, including minimum and maximum facility requirements, are determined by its class. Class designation is based on the zone in which the station's transmitter is located, or proposed to be located.

6. Section 73.207 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.207 Minimum distance separation between stations.

(a) FM allotments and assignments must be separated from other allotments and assignments on the same channel and five adjacent channels by certain minimum distances. If transmitter sites do not meet the minimum distances listed in paragraph (b) of this Section, the Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments. Class D (secondary) assignments, however, are subject only to the separation distances contained in subparagraph (b)(3). (See sec. 73.512 for other rules governing the channel and location of Class D (secondary) assignments.)

(b) The distances listed below apply only to allotments and assignments operating on the same channel or one of five critical channels adjacent to the desired channel. The five adjacent channels are the first (200 kHz removed from the main channel), the second (400 kHz removed), the third (600 kHz removed), the fifty-third (10.6 MHz removed), and the fifty-fourth (10.8 MHz removed). The distances shown must be met regardless of which is the proposed station (i.e., distances shown from a new Class A station to an existing Class C station are also the distances between a new Class C station and an existing Class A station).

(1) Allotments and assignments in the United States must be separated from other domestic allotments and assignments by the following minimum distances.

TABLE A.—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Co channel	200 kHz	400/600 kHz	10.6/ 10.8 MHz
A to A	105(65)	64(40)	27(17)	8(5)
A to B1	138(86)	89(55)	48(30)	8(5)
A to B	163(101)	105(65)	69(43)	16(10)
A to C2	163(101)	103(64)	55(34)	32(20)
A to C1	196(122)	129(80)	74(46)	32(20)
A to C	222(138)	169(105)	105(65)	32(20)
B1 to B1	175(109)	114(71)	50(31)	24(15)
B1 to B	211(131)	145(90)	71(44)	24(15)
B1 to C2	200(124)	134(83)	56(35)	40(25)
B1 to C1	233(145)	161(100)	77(48)	40(25)
B1 to C	259(161)	193(120)	97(60)	40(25)
B to B	241(150)	169(105)	74(46)	24(15)
B to C2	237(147)	164(102)	74(46)	40(25)
B to C1	270(168)	195(121)	79(49)	40(25)
B to C	274(170)	217(135)	105(65)	40(25)
C2 to C2	190(118)	130(81)	58(36)	48(30)
C2 to C1	224(139)	158(98)	77(49)	48(30)
C2 to C	249(155)	188(117)	98(61)	48(30)
C1 to C1	245(152)	177(110)	82(51)	48(30)
C1 to C	270(168)	209(130)	101(63)	48(30)
C to C	290(180)	241(150)	105(65)	48(30)

(2)(i) Under the Canada-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments that are located within 320 kilometers (199 miles) of the common border must be separated from Canadian allotments and assignments by the following distances. Class B1 and

Class C2 allotments and assignments must be considered Class B allotments and assignments when using this table.

TABLE B.—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Cochannel	200kHz	400kHz	600kHz
A to A	145(90)	80(50)	40(25)	32(20)
A to B	217(135)	137(85)	72(45)	64(40)
A to C1	241(150)	161(100)	105(65)	97(60)
A to C	241(150)	193(120)	121(75)	113(70)
B to B	249(155)	169(105)	97(60)	72(45)
B to C1	274(170)	201(125)	121(75)	97(60)
B to C	274(170)	225(140)	137(85)	113(70)
C1 to C1	306(190)	225(140)	145(90)	113(70)
C1 to C	306(190)	249(155)	169(105)	121(75)
C to C	306(190)	257(160)	169(105)	129(80)

(ii) Under the Canada-United States FM Broadcasting Agreement, a short spacing of up to 8 kilometers (5miles) in the direction of a related station may be considered acceptable depending on the circumstances of each individual case.

(3) Under the Mexican-United States FM Broadcasting Agreement, U.S. allotments and assignments located within 320 kilometers (199 miles) of the common border must be separated from Mexican allotments and assignments by the following distances. Class B1 and Class C2 allotments and assignments must be considered Class B and Class C1 allotments and assignments must be considered Class C when using this table.

TABLE C.—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Cochannel	200kHz	400/600kHz	10.6/10.8MHz
A to A	105(65)	65(40)	25(15)	8(5)
A to B	175(110)	105(65)	65(40)	16(10)
A to C	210(130)	170(105)	105(65)	32(20)
A to D	95(60)	50(30)	25(15)	8(5)
B to B	240(150)	170(105)	65(40)	25(15)
B to C	270(170)	215(135)	105(65)	40(25)
B to D	170(105)	95(60)	65(40)	16(10)
C to C	290(180)	170(150)	105(65)	48(30)
C to D	200(125)	155(95)	105(65)	25(15)
D to D	18(11)	10(6)	5(3)	3(2)

* * * * *

7. Section 73.208 is amended by revising paragraphs (a), (b)(2), and (c) to read as follows:

§ 73.208 Reference points and distance computations.

(a)(1) The following reference points must be used to determine distance separation requirements when petitions to amend the Table of Allotments (§ 73.202(b)) are considered:

First, transmitter sites if authorized;
Second, reference coordinates designated by the FCC;
Third, coordinates listed in the United States Department of Interior publication entitled *Index to the National Atlas of the United States of America;* or
Last, coordinates of the main post office.

(The community's reference points for which the petition is submitted will normally be the coordinates listed in the above publication.)

(2) When the distance between communities is calculated using community reference points and it does not meet the minimum separation requirements of § 73.207, the channel may still be allotted if a transmitter site is available that would meet the minimum separation requirements and still permit the proposed station to meet the minimum field strength requirements of § 73.315. A showing indicating the availability of a suitable site should be sumitted with the petition. In cases where a station is not authorized in a community or communities and the proposed channel cannot meet the separation requirement a showing should also be made indicating adequate distance between suitable transmitter sites for all communities.

(b) * * *

* * * * *

(2) The coordinates of the other community as listed in the publication listed in paragraph (a) of this section; or, if not contained therein,

* * * * *

(c) The distance between reference points is considered to be the length of the hypotenuse of a right triangle, one side of which is the difference in latitude of the reference points and the other side the difference in longitude of the two reference points. Distances must be computed by the method given in this paragraph. (This method may be used to accurately determine distances up to 350 kilometers (217 miles)). For these distances, this method will normally be more accurate than calculations using spherical trigonometry that do not correct for the spheroidal shape of the earth. Its accuracy deteriorates rapidly, however, for distances beyond 475 kilometers (295) and it should not be used in those cases.

(1) Convert the latitudes and longitudes to degrees and decimal parts of a degree in accordance with Table I of § 73.698.

(2) Determine the middle latitude of the two reference points to the nearest second of latitude (average the latitudes of the two points).

$$LAT_m = (LAT_1 + LAT_2)/2$$

(3) Determine the number of kilometers per degree of latitude difference for the appropriate middle latitude.

$$LAT_k = 111.108 - .566 \cos(2\ LAT_m)$$

(4) Determine the number of kilometers per degree of longitude difference for the appropriate middle latitude.

$$LONG_k = 111.391 \cos(LAT_m) - .095 \cos(3\ LAT_m)$$

(5) Determine the north-south distance in kilometers.

$$LAT = LAT_k (LAT_1 - LAT_2)$$

(6) Determine the east-west distance in kilometers.

$$LONG = LONG_k (LONG_1 - LONG_2)$$

(7) Determine the distance between the reference points by the square root of the sum of the squares of the distance obtained.

$$DIST = (LAT^{2} + LONG^{2})^{1/2}$$

where:

LAT_1 and $LONG_1$ = coordinates of one location in decimal degrees,
LAT_2 and $LONG_2$ = coordinates of second location in decimal degrees,
LAT_m = middle latitude between points,
LAT_k = kilometers per degree of latitude difference
$LONG_k$ = kilometers per degree of longitude difference,
LAT = north-south distance in kilometers,
LONG = east-west distance in kilometers, and
DIST = distance between two reference points in kilometers.

In computing the above, sufficient decimal figures must be used to determine the distance to the nearest kilometer.

8. Section 73.209 is amendd by revising paragraphs (b) and (c) to read as follows:

§ 73.209 Protection from interference.

* * * * *

(b) The nature and extent of the protection from interference accorded FM broadcast stations operating on Channels 221–300 is limited solely to the protection that results from the distance separation requirements and the rules governing maximum power and antenna heights. These rules are specified in this Subpart.

(c) When the FCC determines that grant of an application would serve the the public interest, convenience, and necessity, an antenna location may be specified in a designated antenna farm area that results in separations less than those specified in this Subpart. All FM allotments and assignments must be afforded protection from interference equivalent to the protection afforded under the minimum separations specified in this Subpart.

9. Section 73.211 is revised in its entirety to read as follows:

§ 73.211 Power and antenna height requirements.

(a) *Minimum requirements.* (1) Except as provided in paragraph (b)(2) of this Section, the minimum effective radiated power for:

Class A stations must equal 0.1 kW (−10 dBk);
Class B1 stations must exceed 3 kW (4.8 dBk);
Class B stations must exceed 25 kW (14 dBk);
Class C2 stations must exceed 3 kW (4.8 dBk);

Class C1 stations must exceed 50 kW (17 dBk); and
Class C stations must equal 100 kW (20 dBk).

(2) Class C stations must have a minimum antenna height above average terrain of at least 300 meters (984 feet). No minimum antenna height above average terrain is specified for Classes A, B1, B, C2, or C1 stations.

(b) *Maximum power and antenna height.* (1) The maximum effective radiated power in any direction and maximum antenna height above average terrain (HAAT) for the various classes of stations are listed below:

Class	Maximum power	Maximum antenna HAAT in meters (feet)
A	3 kW (4.8 dBk)	100 (328)
B1	25 kW (14.0 dBk)	100 (328)
B	50 kW (17.0 dBk)	150 (492)
C2	50 kW (17.0 dBk)	150 (492)
C1	100 kW (20.0 dBk)	300 (984)
C	100 kW (20.0 dBk)	600 (1968)

(2) Antenna heights may exceed that specified in this paragraph if the effective radiated power is reduced so that the distance to the 1 mV/m (60dBu) contour extends no farther than it would if the station were operating with the maximum power and antenna HAAT for its particular class of station. The location of the 1 mV/m (60 dBu) contour is determined using Figure 1 of § 73.333. The antenna HAAT is determined using the procedure contained in §73.313. When antenna HAAT is less than 30 meters (100 feet), an antenna HAAT of 30 meter (100 feet) must be assumed to determine equivalence. When a station's effective radiated power must be reduced below the normal minimum for its class (specified in paragraph (a)(1) of this Section) the value determined will be the minimum for the particular station involved.

(3) For Class B stations in Puerto Rico and the Virgin Islands, a maximum antenna HAAT of 600 meters (1968 feet) with an effective radiated power of 25 kW will be allowed. For antenna heights above 600 meters (1968 feet), the power must be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the maximum facilities allowed. For powers above 25 kW (up to 50 kW), no antenna height will be authorized that results in greater coverage by the 1 mV/m contour than can be obtained with the maximum facilities.

(c) *Existing stations.* Stations authorized prior to [the effective date of the Report and Order in BC Docket 80-90] that do not conform to the requirements of this Section, may continue to operate as authorized. Stations operating with facilities in excess of those specified in paragraph (b) of this Section may not increase their effective radiated powers or extend their 1 mV/m field strength contour beyond the location permitted by their present authorizations. The provisions of this Section will not apply to applications to increase facilities for those stations operating with less than the minimum power specified in paragraph (a) of this Section.

10. Section 73.212 is amended by revising paragraph (b) to read as follows:

§ 73.212 Administrative changes in authorizations.

* * * * *

(b) Antenna heights above average terrain will be rounded out to the nearest meter.

11. Section 73.213 is amended by revising paragraphs (a), (e), and paragraphs (f)(2) (ii) and (iii) to read as follows:

§ 73.213 Stations and spacings below the minimum separations.

(a) Stations authorized prior to November 16, 1964, at locations that do not meet the minimum distances specified in §73.207 may apply for changes in facilities if the requested facilities conform to those listed in the following table:

FACILITIES TO BE AUTHORIZED FOR SHORT-SPACED FM STATIONS

Class of station	Separation in kilometers		Facilities authorized	
	Cochannel	First adjacent	Power (kW)	Antenna height (meters)
A to A	72-105		3	100.
A to A	64-71		2	100.
A to A	less than 64		1	100.
A to B		80-105	3	100 Class A.
			50	150 Class B.
A to B		64-79	3	100 Class A.
			20	150 Class B.
A to B		less than 64	3	100 Class A.
			10	150 Class B.
A to C		129-169	3	100 Class A.
			100	600 Class C.
A to C		97-128	3	100 Class A.
			50	600 Class C.
A to C		less than 97	3	100 Class A.
			100	600 Class C.
B to B	201-241	129-169	50	150.
B to B	161-200	105-128	20	150.
B to B	121-160	80-104	10	150.
B to B	less than 121	less than 80	5	150.
B to C	225-274	177-217	50	150 Class B.
			100	600 Class C.
B to C	177-224	137-176	20	150 Class B.
			50	600 Class C.
B to C	145-176	97-136	10	150 Class B.
			20	600 Class C.
B to C	less than 145	less than 97	5	150 Class B.
			10	600 Class C.
C to C	241-290	201-241	100	600.
C to C	193-240	153-200	50	600.
C to C	161-192	121-152	20	600.
C to C	less than 161	less than 121	10	600.

* * * * * *

(e) The powers listed in the table are the maximums the FCC will authorize. Antenna heights may exceed those specified in the table if the effective radiated power is reduced so that the 1 mV/m contour extends no further than it would with the maximum power and antenna height. The antenna height value to be used is that above average terrain and not that in any particular direction. When antenna heights are less than 30 meters (100 feet), a value of 30 meters (100 feet) must be assumed for the purposes of this paragraph.

(f) * * *

(2) * * *

(i) * * *

(ii) When a station does not meet the minimum separations to co-channel or first adjacent channel stations, it may apply for up to the maximum listed facilities for the separations that would exist at the new transmitter site. (See paragraph (F)(2)(iii) of this section subdivision (iii) for further restrictions on very short-spaced stations).

(iii) The provisions of this subparagraph apply where the resulting separation after the move would be less than: co-channel, 64 kilometers Class A to Class A, 121 kilometers Class B to

Class B, 145 kilometers Class B to C or vice versa, or 161 kilometers Class C to Class C; first adjacent channel 64 kilometers Class A to Class B or vice versa, 80 kilometers Class B to Class B, 97 kilometers Class A or B to Class C, or vice versa, and 121 kilometers Class C to Class C. Stations so situated may apply to move and use either their present facilities or no more than those specified for their distance brackets in paragraph (a) of this Section, if the move would not decrease the short distance by more than 5 kilometers. If the move would decrease the short distance a greater amount, a station will be permitted no more than the facilities that would give it, in the critical direction, a 1 mV/m contour located no further out than that which would result from using the former location and the maximum facilities specified for the distance bracket.

Note.—For the purposes of the above Section, Classes B1 and C2 will be considered Class B and Class C1 will be considered Class C until further notice.

§ 73.220 [Amended]

12. Section 73.220 is amended in paragraph (a), the phrase "500 feet" is revised to read "150 meters (492 feet)."

§ 73.240 [Amended]

13. Section 73.240 is amended in paragraph (a)(2), the phrase "100 miles" is revised to read "160 kilometers (100 miles)."

14. Section 73.310 is amended by revising the headnote and the first two definitions in paragraph (a) to read as follows:

§ 73.310 FM technical definitions.

(a) *Antenna height above average terrain (HAAT).* HAAT is calculated by: determining the average of the antenna heights above the terrain from 3 to 16 kilometers (2 to 10 miles) from the antenna for the eight directions evenly spaced for each 45° of azimuth starting with True North (a different antenna height will be determined in each direction from the antenna); and computing the average of these separate heights. In some cases less than eight directions may be used. (See § 73.313(d).) Where circular or elliptical polarization is used, the antenna height above average terrain must be based upon the height of the radiation of the antenna that transmits the horizontal component of radiation.

Antenna power gain. The square of the ratio of the root-mean-square (RMS) free space field strength produced at 1 kilometer in the horizontal plane in millivolts per meter for 1 kW antenna input power to 221.4 mV/m. This ratio is expressed in decibels (dB). If specified for a particular direction, antenna power gain is based on that field strength in the direction only.

* * * * *

15. Section 73.313 is amended by adding introductory text to paragraph (c) and revising paragraphs (c)(1), (d), (e), (f), (g), and (h) to read as follows:

§ 73.313 Prediction of coverage.

* * * * *

(c) In predicting the distance to the field strength contours, the F(50,50) field strength chart, Figure 1 of § 73.333 must be used. The 50% field strength is defined as that value exceeded for 50% of the time.

(1) The F(50,50) chart gives the estimated 50% field strengths exceeded at 50% of the locations in dB above 1 uV/m. The chart is based on an effective power radiated from a half-wave dipole antenna in free space, that produces an unattenuated field strength at 1 kilometer of about 107 dB above 1 uV/m (221.4 mV/m).

* * * * *

(d) The antenna height to be used with this chart is the height of the radiation center of the antenna above the average terrain along the radial in question. In determing the average elevation of the terrain, the elevations between 3 and 16 kilometers from the antenna site are used.

(1) Profile graphs must be drawn for eight radials beginning at the antenna site and extending 16 kilometers therefrom. The radials should be drawn for each 45° of azimuth starting with True North. At least on radial must include the principal community to be served even though it may be more than 16 kilometers from the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served, and one or more such radials are drawn in addition, these radials must not be used in computing the antenna height above average terrain.

(2) Where the 3 to 16 kilometers portion of a radial extends in whole or in part over a large body of water or extends over foreign territory but the 50 uV/m contour encompasses land area within the United States beyond the 16 kilometers portion of the radial, the entire 3 to 16 kilometers portion of the radial must be included in the computation of antenna height above average terrain. However, where the 50 uV/m contour does not so encompass United States land area and (i) the entire 3 to 16 kilometers portion of the radial extends over large bodies of water or foreign territory, such radial must be completely omitted from the computation of antenna height above average terrain, and (ii) where a part of the 3 to 16 kilometers portion of a radial extends over large bodies of water or foreign territory, only that part of the radial extending from the 3 kilometers sector to the outermost portion of land area within the United States covered by the radial must be used in the computation of antenna height above average terrain.

(3) The profile graph for each radial should be plotted by contour intervals of from 12 to 30 meters and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 30 meters would result in several points in a short distance, 60 or 120 meter contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping the smallest contour interval indicated on the topographic map should be used, although only relatively few points may be available. The profile graph should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in kilometers as the abscissa and the elevation in meters above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data used. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper that shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure as this factor is taken care of in the charts showing signal strengths. The average elevation of the 13 kilometer distance between 3 and 16 kilometers from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50% of the distance) in sectors and averaging those values.

(4) Examples of HAAT calculations:

(i) The heights above average terrain on the eight radials are as follows:

	Meters
0°	120
45°	255
90°	185
135°	90
180°	−10
225°	−85
270°	40
315°	85

The antenna height above terrain (defined in § 73.310(a)) is computed as follows:

(120+255+185+90−10−85+40+85)/8=85 meters.

(ii) Same as (i), except the 0° radial is entirely over sea water. The antenna height above average terrain is computed as follows (note that the divisor is 7 not 8):

(255+185+90−10−85+40+85)/7=80 meters.

(iii) Same as (i), except that only the first 10 kilometers of the 90° radial are in the United States; beyond 10 kilometers the 90° radial is in a foreign country. The height above average terrain of the 3 to 10 kilometer portion of the 90° radial is 105 meters. The antenna height above average terrain is computed as follows (note that the divisor is 8 not 7.5):

(120+255+105+90−10−85+40+85)/8=75 meters.

(e) In cases where the terrain in one or more directions from the antenna site departs widely from the average elevation of the 3 to 16 kilometer sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such cases, the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showings should describe the procedure used and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular prediction method and the area obtained by the supplemental method. In directions where the terrain is such that antenna heights less than 30 meters for the 3 to 16 kilometer sector are obtained, an assumed height of 30 meters must be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method used in predicting such coverage. In special cases, the FCC may require additional information as to terrain and coverage.

(f) The effect of terrain roughness on the predicted field strength of a signal at points distant from an FM transmitting antenna is assumed to depend on the magnitude of a terrain roughness factor (h) which, for a specific propagation path, is determined by the characteristics of a segment of the terrain profile for that path 40 kilometers in length located between 10 and 50 kilometers from the antenna. The terrain roughness factor has a value equal to the distance, in meters, between elevations exceeded by all points on the profile for 10% and 90% respectively, of the length of the profile segment. (See § 73.333, Figure 4.)

(g) If the lowest field strength value of interest is initially predicted to occur over a particular propagation path at a distance that is less than 50 kilometers from the antenna, the terrain profile segment used in the determination of terrain roughness factor over that path must be that included between points 10 kilometers from the transmitter and such lesser distances. No terrain roughness correction need be applied when all field strength values of interest are predicted to occur 10 kilometers or less from the transmitting antenna.

(h) Profile segments prepared for terrain roughness factor determinations are to be plotted in rectangular coordinates, with no less than 50 points evenly spaced within the segment using data obtained from topographic maps with contour intervals of approximately 15 meters (50 feet) or less if available.

* * * * *

16. Section 73.314 is amended by revising paragraphs (b)(1)(ii), (b)(2) introductory text, and paragraphs (b)(2)(ii), (b)(2)(v), (b)(2)(vii), (b)(2)(viii), and (c)(2) to read as follows:

§ 73.314 Field strength measurements.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(ii) Each radial is marked, at a point exactly 16 kilometers from the transmitter and, at greater distances, at successive 3 kilometer intervals. Where measurements are to be conducted over extremely rugged terrain, shorter intervals may be used, but all such intervals must be of equal length. Accessible roads intersecting each radial as nearly as possible at each 3 kilometer marker are selected. These intersections are the points on the radial at which measurements are to be made, and are referred to subsequently as measuring locations. The elevation of each measuring location should approach the elevation at the corresponding 3 kilometer marker as nearly as possible.

(2) *Measurement procedure.* All measurements must be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9 meters above the roadbed. At each measuring location, the following procedure must be used:

(i) * * *

(ii) The antenna is elevated to a height of 9 meters.

* * * * *

(v) A mobile run of at least 30 meters is made, that is centered on the intersection of the radial and the road, and the measured field strength is continuously recorded on a chart recorder over the length of the run.

* * * * *

(vii) If, during the test conducted as described in paragraph (b)(2)(iii) of this section, the strongest signal is found to come from a direction other than from the transmitter, after the mobile run prescribed in subparagraph (b)(2)(v) of this section is concluded, additional measurements must be made in a "cluster" of at least five fixed points. At each such point, the field strengths with the antenna oriented toward the transmitter, and with the antenna oriented so as to receive the strongest field, are measured and recorded. Generally, all points should be within 60 meters of the center point of the mobile run.

(viii) If overhead obstacles preclude a mobile run of at least 30 meters, a "cluster" of five spot measurements may be made in lieu of this run. The first measurement in the cluster is identified. Generally, the locations for other measurements must be within 60 meters of the location of the first.

* * * * *

(c) * * *

* * * * *

(2) *Measurement procedure.* All measurements must be made using a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9 meters above ground level.

* * * * *

17. Section 73.316 is amended by revising the headnote and paragraph (e) to read as follows:

§ 73.316 FM antenna systems.

* * * * *

(e) Applications proposing the use of FM transmitting antennas in the immediate vicinity (*i.e.* 60 meters or less) of other FM or TV broadcast antennas must include a showing as to the expected effect, if any, of such approximate operation.

* * * * *

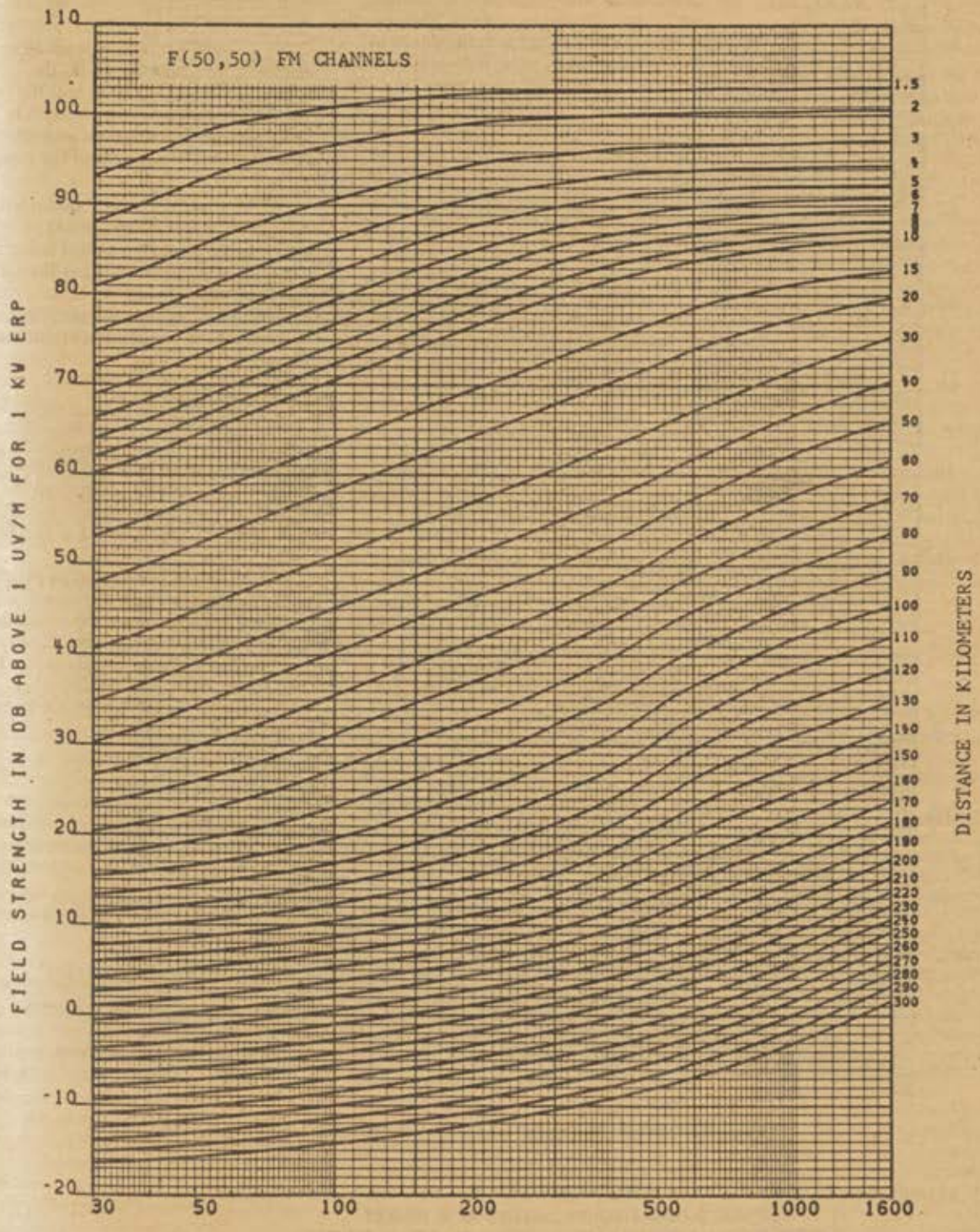
18. Section 73.333 is amended by revising the introductory text, Figures 1 and 1a, and removing Figure 3 as follows:

§ 73.333 Engineering charts.

This Section consists of the following Figures 1, 1a, and slider 4, and 5 (Figure 3 removed).

BILLING CODE 6712-01-M

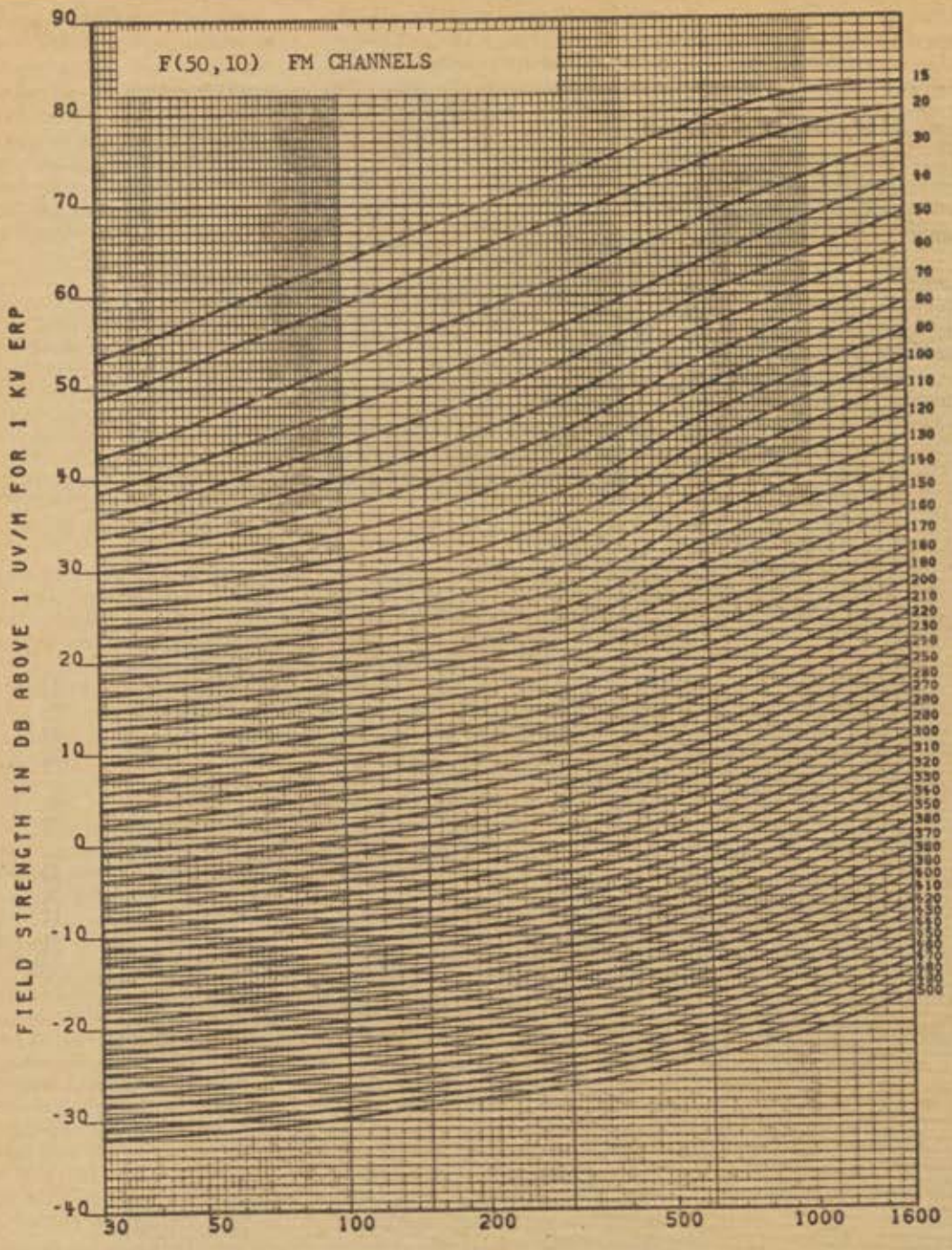
C16



FCC §73.333 FIGURE 1

FM CHANNELS

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



FCC §73.333 FIGURE 1a

FM CHANNELS

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS

BILLING CODE 6712-01-C

* * * * *

19. Section 73.504 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 73.504 Channel assignments under the U.S.A.-Mexico FM Broadcast Agreement.

* * * * *

(c) The minimum distance separations given in § 73.207 apply to the following:

* * * * *

20. Section 73.506 is amended by revising the headnote and paragraphs (a)(3) and (b), and by adding new paragraph (c) to read as follows:

§ 73.506 Classes of Noncommercial Educational FM stations and channels.

(a) * * *

* * * * *

(3) Noncommercial educational stations with more than 0.01 kW transmitter power output are classified Class A, B1, B, C2, C1, or C, depending on the effective radiated power, antenna height above terrain, and the zone in which the station's transmitter is located, on the same basis as provided for in §§ 73.205, 73.206, and 73.211 for stations on the non-reserved FM channels.

(b) Any noncommercial educational station except Class D may be assigned to any of the channels listed in § 73.501. Class D noncommercial educational FM stations applied for or authorized prior to June 1, 1980, may continue to operate on their authorized channels subject to the provisions of § 73.512.

21. Section 73.507 is amended by revising paragraph (c) and note to read as follows:

§ 73.507 Minimum distance separation between stations.

* * * * *

(c)(1) Stations separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) from allotments or assignments on non-reserved channels will not be authorized unless they conform to the following separation table:

	Required spacing	
	Kilometers	(Miles)
Class of stations:		
A to A	8	(5)
B to A	16	(10)
B to B	24	(15)
C to A	32	(20)
C to B	40	(25)
C to C	48	(30)

(2) Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments differing in frequency by 10.6 to 10.8 MHz (53 or 54 channels), the following separations apply to U.S. noncommercial educational FM allotments and assignments and Mexican allotments or assignments in the border area.

	Required spacing	
	Kilometers	(Miles)
Class of stations:		
C to D	24	(15)
B to D	16	(10)
C to D	8	(5)
D to D	3	(2)

Note.—For purposes of this Section, Classes B1 and C2 will be considered Class B, and Class C1 will be considered Class C until further notice.

22. Section 73.509 is amended by revising paragraph (e) to read as follows:

§ 73.509 Protection from interference.

* * * * *

(e) No application for FM Channel 200 will be accepted if the requested facility would cause interference to Channel 6 operations, including TV translators on this channel. Such objectionable interference will be considered to exist whenever the 15 dBu contour of the proposal, based on the F(50,10) curves in § 73.333 Figure 1a, would overlap the 40 dBu contour of the television station, based on the F(50,50) curves in § 73.333 Figure 1.

23. Section 73.511 is amended by revising paragraph (b) to read as follows:

§ 73.511 Power and antenna height requirements.

* * * * *

(b) On Channels 218, 219, and 220 specified in § 73.501, no educational station will be authorized with effective radiated power greater than that specified in § 73.211(b)(1) for the respective class of station, and the maximum effective radiated power permissible shall also be subject to the provisions of § 73.211(b)(2).

23. Section 73.3573 is amended by revising paragraphs (a)(1) and (c) as follows:

§ 73.3573 Processing FM broadcast and FM translator station applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for FM stations authorized under this Part is any change in frequency, station location, or class of station; or, any antenna location which would result in a change of 50% or more in the area within the station's predicted 1 mV/m field strength contour. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) For FM translator stations authorized under Part 74, it is any change in frequency (output channel), primary stations, or authorized principal community or area. However, the FCC may, within 15 days after the acceptance for filing 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 is subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

* * * * *

(c) If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcast facilities, the same will be granted. If the FCC is unable to make such a finding and it appears that a hearing may be required, the procedure given in § 73.3593 will be followed.

* * * * *

Dissenting Statement of FCC Commissioner James H. Quello

In Re: FM Drop-Ins—Docket No. 80-90

I don't believe the engineering record or the hypothetical need developed in Docket 80-90 justifies the proposed widescale increase in FM allotments.

This action would cause degraded service, turmoil and interference for millions of existing listeners, contention and litigation among applicants and further administrative burdens on a Mass Media Bureau already overburdened with a huge backlog of AM-FM and low power TV applications.

I believe a wiser, more reasoned approach would be to present new FM allotments on a case-by-case basis through waiver requests. This would provide an opportunity to actually test the extent of interference and overall public acceptance before risking an untested, strongly contested, widescale increase and reallotment.

I lend considerable weight to the expert engineering study by A.D. Ring which indicates a net loss in service would result in the Commission's proposals. I agree with the logic in the study that any increase in FM availability would cause a significant detriment to present listening. Also, I believe it is a rule of physics, not of this Commission, that a new station causes interference far beyond the boundaries of new service.

I'm concerned that the value of a strong secondary service now enjoyed by millions of listeners is allotted a much lower priority than the undocumented need for a new, frequently substandard, FM service. I also believe FM stereo should be treated as a significant state of the art improvement in

basic service, rather than as a mere expendable ancillary enhancement.

To the extent that the Commission has relied upon the "need" for vastly increased FM allotments, I believe it has been misled. I have seen nothing in the record which documents this alleged need beyond some "wish lists" prepared on a hypothetical basis and largely for purposes other than this *Rulemaking*.

The only rational public interest reason for embarking upon this massive change in the Table of Allotments is to provide for better, more diversified FM radio service to the American people. The fact is, however, this revised scheme of allocation will merely provide different service in many instances and reduced or deleted service in others. As suggested before, it is axiomatic that for each new service introduced, interference to existing service is also introduced. For some listeners, their present stereo service will become monaural. For others, their present monaural service will become further degraded or disappear.

I'm afraid this Commission has taken an important policy decision without a full understanding of who wins and who loses. In fact, we persisted in keeping our technical analysis secret, including the assumptions that were a part of that analysis, for reasons that remain unclear to me. Since the technical analysis is fundamental to this decision, it should have been made available to interested parties as early as possible to permit careful review and comment. Unfortunately, the Commission has a penchant for withholding technical analysis from the public in important policy proceedings. (Viz: UHF Television Noise Figure, AM Stereo.) The public is ill served, in my view, when our decisions are based upon technical studies which are not made available for comment in a timely manner. If the technical material upon which we rely is flawed or unworthy of public scrutiny, the Commission is disserving itself as well as the public. There is nothing inherently secret about the analysis of known engineering facts regarding technical matters.

In summary, I dissent because (1) the need has not been adequately established; (2) interested parties did not have the opportunity to review and comment upon FCC technical analyses; (3) the resulting interference and disruption would be a disservice to the listening public; and (4) a wiser case-by-case option would provide a valuable opportunity to test interference and public acceptance.

Separate Statement of Commissioner Henry M. Rivera

RE: Modification of FM Technical Rules to Increase the Availability of Broadcast Stations—BC Docket 80-90.

By this decision, the Commission has dramatically increased the potential for local FM radio service to the American public and the enhanced competition and diversity that increased service implies. The Commission's staff forecasts that many major cities, where additional outlets were previously foreclosed, will now be eligible for additional stations as a consequence of today's rule changes. Many communities in remote locations will now qualify for their first local service as well. All told, the Mass Media Bureau estimates that this decision will make it possible to satisfy as much as 57 percent of the expressed demand for additional FM radio stations; under the old allocation structure, just seven percent of this demand could have been accommodated. More specifically, of the 1000 communities studied, additional stations can now be assigned to approximately 49 percent which have daytime-only AM service and 31 percent of those which have no local service. This action will also serve the interests of 40 percent of the communities said to need additional minority-owned stations, as well as the interests of 26 percent of the locations desiring additional public radio stations.

The public interest benefits of our decision are clear and substantial. Still, because the paramount objective of this proceeding has been to secure *additional* service, it was imperative for the Commission to ensure that the proposed technical changes to allow additional FM stations would not significantly degrade the FM service overall. With one exception (the uniform protected contour proposal), the Commission has concluded that the addition of new FM stations will not detract materially from the technical integrity of existing FM service, and I believe our determinations in this regard are both responsible and consistent with sound engineering principles.

The Commission has decided that, rather than entertaining random requests for the new channels made possible by these rule changes, most of these new channels should be allotted in one omnibus proceeding. Our decision to amend the FM Table of Allotments accordingly is especially wise. The licensing of additional FM stations will now proceed in a smooth and orderly fashion, which will minimize potential delays and maximize the expeditious delivery of new FM service consistent with FCC resources.

While I would have preferred more expeditious consideration of these proposals, I am delighted that we have finally and affirmatively acted upon them. And, although I wish resource limitations did not require postponing the effective date of our action until fiscal Year 1984, we will still be moving forward during the intervening four months with preparation of the rulemaking that is required for the public to apply for stations under the newly adopted technical rules.

In sum, this Report and Order marks a renewed Commission commitment to the principles of diversity and competition—principles which must be the basis for the integrity and credibility of our ongoing broadcast deregulatory efforts. The public interest is well-served by this decision in and of itself, and I am especially pleased to see this long-awaited action taken at last.

[FR Doc. 83-16482 Filed 6-24-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[Docket No. 20846; FCC 83-174]

Private Land Mobile Radio Services; Policies and Regulations To Govern the Interconnection of Private Land Mobile Radio Systems With the Public Switched Telephone Network in Specific MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends and clarifies the *Second Report and Order* establishing new rules and policies to govern the interconnection of private land mobile communications systems with the public switched telephone network in the 800 MHz bands. These new rules and policies are necessary in light of the petitions for reconsideration, the parties' comments, and new legislation allowing interconnected operation under certain conditions.

DATES: Effective July 5, 1983.

FOR FURTHER INFORMATION CONTACT: John B. Richards, Rules Branch, Land Mobile & Microwave Division, Private Radio Bureau, Washington, DC 20554; (202) 634-2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio services.

Memorandum Opinion and Order

Amendment of Part 90 of the Commission's Rules to Prescribe Policies and Regulations to Govern the Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network in the Bands 806-821 and 851-866 MHz, Docket No. 20846.

Adopted: April 27, 1983.

Released: May 27, 1983.

By the Commission: Commissioner Sharp concurring in the result; Commissioner Jones absent.

Background

1. On March 18, 1982, the Commission adopted a *Second Report and Order* in this proceeding and established new rules and policies to govern the interconnection of private land mobile communications systems with the public switched telephone network (PSTN) in the 800 MHz bands.[1] This action was the second phase in a proceeding initiated to address the broad subject of the interconnection of private systems with the PSTN. The *First Report and Order* adopted rules to govern the interconnection of private land mobile

[1] *Second Report and Order*, Docket No. 20846, 89 FCC 2d 741 (1982).

radio systems with the PSTN in the bands below 800 MHz.[2]

2. The new rules at 800 MHz are substantially more liberal than those governing interconnection below 800 MHz. The new rules enhance user options and relax certain restrictions which previously pertained to interconnected private land mobile systems. Under the new rules, licensees may use manual or automatic means of interfacing their private radio equipment and associated devices with the public switched telephone network, provided the actual arrangements for the telephone service are made individually by each licensee with the telephone company or collectively by a group of licensees on a non-profit basis.[3] Interconnection at 800 MHz is permitted in all geographic areas of the country and in all private land mobile services, and there are no time limitations on message length.[4] No special co-channel monitoring equipment at the base facility or mobile unit is required. Interconnection also is not restricted to any specific location in the private system. Licensees may use separate interconnection devices or may share the use of the same device at a common site.[5] Mobile operators, as well as base station operators, are permitted to control the system.[6]

3. The Commission's objective in adopting these rules was to recognize the ever increasing role that interconnection with the public switched telephone network plays in enhancing the ability of small and large businesses alike to employ their private land mobile communications systems effectively and efficiently in the furtherance of the public interest. To this end, the Commission sought to recognize and to accommodate these needs by adopting rules which removed unnecessary impediments to the implementation of private interconnected systems and which permitted the use of state-of-the-art equipment and system design. We concluded that our objectives and these more liberal interconnection rules were in the public interest and were consistent with our statutory mandate to promote rapid and efficient communications and to encourage the larger and more effective use of radio.[7]

4. The basic objectives of our decision have not been challenged by any party. No one has argued that interconnection should be banned at 800 MHz or that it should be limited to specified geographic areas of the country or to certain radio services. Nor has any party argued that interconnection should be allowed only for limited time periods or only if accomplished manually by a base station operator at the licensee's principal place of business.

Reconsiderations

5. Two parties, however, have requested reconsideration or clarification of specific aspects of our *Second Report and Order*. The major points involve the telephone service: (1) Who may provide it, (2) who may arrange for it, (3) whether licensees should be able to cost share it, and (4) whether the interconnection device or "patch" should be construed to be a part of it. The petitioners also question whether the Commission has jurisdiction which it asserted in its *Second Report and Order* to address exchange tariffs that unreasonably restrict the rights of private licensees to interconnect with telephone exchange facilities. Lastly, questions have been raised about the control requirements that should apply to interconnected private radio systems.

6. The two petitioning parties are the Telocator Network of America (Telocator) and the National Association of Regulatory Utility Commissioners (NARUC). Telocator, the national representative of the radio common carrier (RCC) industry, argues that the *Second Report and Order* should be clarified or amended in several respects. For instance, in the *Second Report and Order*, we required private licensees to obtain their telephone service directly from "the telephone company." Telocator argues that this language in the decision should be amended to authorize licensees and users in the private land mobile services to obtain telephone service from "any duly authorized carrier" (i.e. any entity authorized to provide telephone service on a primary or resale basis). In the *Second Report and Order*, we also prohibited SMRS base station licensees from making the telephone service arrangements for other licensees using their systems. Telocator argues that third party equipment suppliers, as well as SMRS base station licensees, should be prohibited from making the telephone service arrangements with the carrier on behalf of other private licensees and users. We also allowed private licensees and users, in the *Second Report and Order*, to share the telephone service aspect of their interconnected private systems on a cooperative cost shared basis. Telocator contends that such sharing invites "sham arrangements" and that we should prohibit sharing of the telephone service and instead should require each licensee or user to arrange individually with the carrier for his or her own unshared telephone service. In regard to the interconnection terminal device or "patch," Telocator argues that the Commission should allow only the telephone service supplier to provide it to private licensees and users. Alternatively, Telocator argues that if the Commission allows SMRS base station licensees or third party equipment suppliers to provide the patch, we should require that they provide it on a non-profit cooperative basis. Lastly, Telocator, along with NARUC, argues that the Commission lacks the authority asserted in the *Second Report and Order* to oversee the offerings of carriers to ensure that exchange tariffs do not restrict unreasonably the rights of private licensees and users to interconnect with the public switched Telephone network.[8]

Oppositions

7. Oppositions to Telocator's petition have been filed by the National Association of Business and Educational Radio, Inc. (NABER), a recognized frequency advisory committee and a non-profit association of Business Radio Service licensees and vendors of private land mobile radio products and services; the Special Industrial Radio Service Association (SIRSA), the recognized frequency advisory committee for the Special Industrial Radio Service; Motorola, Inc., a manufacturer of private land mobil radio equipment; and the National Mobil Radio Association (NMRA), a non-profit association of small businesses engaged in sales and maintenance of radio communications equipment and systems. In general, these parties support the conclusions the

[2] *First Report and Order*, Docket No. 20846, FCC 78-822, August 25, 1978.

[3] Licensees were prohibited from engaging in the "resale" of telephone service. *Second Report and Order, supra* at p. 753; 47 CFR 90.477.

[4] Although interconnection is secondary to non-interconnected dispatch operations on shared frequencies, there in no requirement that the interconnection be ancillary to the dispatch function at 800 MHz. Interconnected private systems with no dispatch capabilities are permitted. Mobile loading requirements are unaffected. See 47 CFR 90.477.

[5] For a discussion of the shared use of private land mobile systems and the joint use of facilities, see *Report and Order*, Docket No. 18921, 89 FCC 2d 796 (April 13, 1982), *Memorandum Opinion and Order*, Docket No. 18921, adopted April 27, 1983.

[6] The new or amended rules are reflected in 47 CFR 90.7, 90.475, 90.477, 90.483 and 90.487, and became effective on May 17, 1982. Other rules were deleted.

[7] 47 U.S.C. 151 and 303.

[8] An additional issue raised by Telocator concerning the requirement for "alerting signals" has been rendered moot by an Erratum (31491) released June 1, 1982. Alerting signals are not required at 800 MHz.

Commission reached in the *Second Report and Order*. They disagree with the points raised by Telocator, except to the extent they agree that private licensees and users should have the option of obtaining telephone service from any duly authorized carrier. They agree with our decision to permit non-profit sharing of the telephone service and argue that third party equipment suppliers should be allowed to arrange for the telephone service as well as provide the interconnection "patch" on an unregulated basis.[9]

Legislation

8. Shortly after the pleadings in this proceeding were filed, we received legislative endorsement of the general regulatory approach adopted in our *Second Report and Order*. On September 13, 1982, the "Communications Amendments Act of 1982" was signed into law.[10] Section 331 of the Communications Act now provides that:

> (c)(1) [P]rivate land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a non-profit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier, or (B) licensee jointly obtain such interconnection directly from a duly authorized carrier.
>
> (2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.
>
> (3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.

9. This new legislation affirms our earlier conclusion that interconnection of private radio systems should occur on an unfettered basis, subject only to the requirement that licensees and users obtain their own telephone service either individually or collectively on a non-profit basis.[11] The legislative history makes it clear that Congress' concern in adopting this new legislation was identical to ours in adopting our *Second Report and Order*: private licensees and users should be able to interconnect freely, limited only by the prohibition against "resale" of telephone service or facilities.[12]

Decisions

10. We have reviewed our *Second Report and Order*, the parties' pleadings, and the new legislation. In general, we conclude that our 800 MHz interconnection rules are consistent with the legislation and the public interest. In certain respects, however, the legislation encourages even more flexibility and fewer restrictions than our rules now provide. We affirm our basic decisions in the *Second Report and Order* rgarding the telephone service and the provision of interconnection equipment. In consideration of the legislation and the parties' comments, however, we are modifying our rules as they relate to making arrangements for telephone service and to controlling interconnected private land mobile systems.

I. The Telephone Service

1. Providing the Telephone Service

11. The *Second Report and Order* required that private land mobile service licensees and users obtain telephone service directly from "the telephone company." The parties interpreted these rules as requiring that the telephone service be provided exclusively by wireline telephone companies. They note, however, that other entities are authorized to provide telephone service and that private licensees and users should have the additional option of obtaining telephone service from them.

12. It was not our intention in our *Second Report and Order* that "the telephone company" should be construed so narrowly as to include only the wireline carriers. We intended to allow private licensees and users to obtain their telephone service from any entity authorized to provide it. In view of this, the arguments of the parties, and the new legislation which makes no distinctions as to whether private services eligibles arrange for telephone service from wireline or radio common carriers, we are modifying our rules to clarify this point. Any "duly authorized carrier" will be permitted to provide telephone service to private licensees and users.[13]

2. Arranging for the Telephone Service

13. Telocator points out that the *Second Report and Order* prohibits the base facilities licensee of an 800 MHz private carrier system (SMRS) from making the telephone service arrangements for licensees on the system. Telocator argues that this prohibition should extend to third party equipment suppliers who make radio equipment available on a lease or rental basis to private land mobile licensees. NABER, SIRSA, and Motorola disagree, noting the traditional distinctions between licensees and equipment suppliers and arguing that unlicensed third parties should be able to arrange for telephone service for private licensees if this promotes system implementation and eases burdens on the licensees.[14]

14. We agree with the comments that private licensees and users should be able to utilize the services of ordering agents for the purpose of obtaining telephone service from the carrier on a non-resale basis. As a practical matter, SMRS base station licensees and third party equipment suppliers are often in the best position to make these arrangements. They are often familiar with both the sites and the equipment. The new statute indicates that telephone service should be obtained "directly" from a carrier. Had the statute been intended to prohibit SMRS licensees and equipment suppliers from making these practical arrangements, the legislative history surely would have said so. Instead, it indicates that the new statute was intended only to preclude licensees and entrepreneurs in the private land mobile services from engaging in the

---

[9] Telocator filed a Reply to the Oppositions to its Petition, reiterating its position.

[10] "The Communications Amendments Act of 1982," Pub. L. 97-259, 96 Stat. 1087, September 13, 1982; see Section 120 (Section 331 of the Communications Act of 1934, as amended, is codified at 47 U.S.C. 332).

[11] Non-profit cooperative stations and private stations that are not multiple licensed or otherwise shared by authorized users are exempt from the requirements of the new legislation. Pub. L. 97-259, *supra*, at section 120(c)(1); 47 U.S.C. 332(c)(1).

[12] *See, Second Report and Order, supra* at p. 753; and *Resale and Shared Use*, 60 FCC 2d 251 (1976), recon. denied 62 FCC 2d 588 (1977), aff'd sub nom. *ATT vs. FCC*, 572 F.2d 17 (2nd Cir. 1978), cert. denied 438 U.S. 875 (1978). In the land mobile services, the new statutory test supersedes the traditional common law test of indifferent service to the public established in *NARUC v. FCC*, 525 F.2d 630 (D.C. Cir.), cert. denied 425 U.S. 992 (1976); *See, Conference Report* No. 97-765, 97th Cong., 2nd Sess., August 18, 1982, at 55.

[13] A "duly authorized carrier" would include any authorized carrier, *e.g.*, radio common carriers, specialized common carriers, miscellaneous common carriers, and resale common carriers. *See* 47 CFR 90.477(b)(2) and 90.477(d)(2).

[14] See, *e.g.*, *Future Use of MHz, Memorandum Opinion and Order*, 55 FCC 2d 771,772 (1975) regarding the differences between the rights, duties and responsibilities of licensees and unlicensed equipment suppliers.

resale of telephone service or facilities. The interconnection is prohibited only if the private land mobile operator or licensee is reselling for profit common carrier services or facilities. According to the legislative history, no persons otherwise participating in the private land mobile services, including equipment suppliers, should be classified as common carriers with respect to their participation in these services.[15] We are modifying the rules adopted in the *Second Report and Order*, therefore, to allow private licensees and users to obtain telephone service from a carrier on a non-resale basis through ordering agents acting on their behalf. Specifically, we are removing our earlier blanket prohibition against any involvement by the SMRS base station licensee in the telephone service arrangements. This will enable licensees and users to benefit from the services of equipment suppliers, SMRS licensees and others who may be in a better position to make the best arrangements for them. Any joint arrangements must be for telephone service to be provided on a non-profit basis with costs apportioned among the participating user-licensees on a pro rata formula or paid by each participant to the carrier providing the telephone service. We will continue to prohibit the resale of telephone service or facilities in the private land mobile services.

3. Sharing the Telephone Service

15. Telocator's argument that we should not permit any sharing of the telephone service is inconsistent with the philosophy we have consistently espoused with respect to both private land mobile systems and resale.[16] Moreover, it has been settled by the new legislation which affirms what we have said before: resale is a common carrier activity, sharing is not. Telocator argues in opposition to this that to allow cooperative sharing of the telephone service is to invite "sham arrangements." However, Telocator offers no evidence in support of this contention and we disagree with it. We will not treat Telocator's unsubstantiated allegations as if they were demonstrated facts Telocator *Network of America v. FCC*, 691 F.2d 525 (D.C. Cir., 1982). We find no reason to conclude that cooperative or joint use of telephone service will inevitably lead to sham arrangements. Certainly there is no basis in the record before us for drawing such conclusions. The possibility that a few persons may try to mask a resale does not invalidate all bona fide sharing arrangements. We will require that licensees and users sharing telephone service maintain records to demonstrate the cost-sharing nature of the arrangement and we will require that they either distribute their costs at least once a year or pay their share of the costs for joint use directly to the authorized carrier.[17] In the event that any person attempts to circumvent the resale restrictions, we can and will take appropriate remedial action.[18]

4. The "Patch"

16. Telocator also argues that the interconnect terminal device or "patch" is part of the telephone service and that it should be provided by the authorized carrier. Telocator contends that we should not allow the SMRS base station licensee or the third party equipment supplier to provide the patch. Telocator further argues that if we do not regard the patch as part of the telephone service, and if we allow sharing of the telephone service and the joint use of the patch by the participants sharing the telephone service, then the use of patch should be subject to our cooperative use requirements.[19]

17. NABER, NMRA, SIRSA, and Motorola generally disagree with Telocator on these points. For instance, NMRA argues that the patch is simply a piece of electronic equipment normally furnished by the provider of the base station equipment. It operates subject to the control of the control point operator at either a fixed or mobile point within the system and there is no reason to regard it as part of the telephone service. These parties argue that we should not require the patch to be cost-shared. They believe that this would unnecessarily constrain eligibles' abilities to negotiate for requisite equipment while at the same time serving no legitimate regulatory objective.

18. We have considered these arguments carefully. We have also considered the fact that the new legislation does not specify that the interconnection device is to be viewed as part of the basic telephone service offering. We agree with NMRA, NABER and SIRSA: the patch is simply an unlicensed piece of electronic gear furnished by the provider of the base station equipment or any other third party on a competitive basis. As we noted in the *Carterphone* decision:

> [a] customer desiring to use an interconnecting device to improve the utility to him of both the telephone system and a private radio system should be able to do so, so long as the interconnection does not adversely affect the telephone company's operations or the telephone system's utility for others.[20]

19. Telocator claims the patch must be considered part of the telephone service because "(i)f a system is not interconnected (the patch) is not required at all; and if a system is interconnected, the telephone service aspect of it will not work without it." Reply at p. 4. However, an interconnected private system also will not function as an interconnected private system without an antenna or a transmitter. This does not render the equipment supplier of the SMRS ineligible to provide the antenna or the transmitter nor does it render the private system a common carrier by virtue of the interconnection. The sale or lease of interconnect terminal equipment is not the resale of local exchange service. We agree with SIRSA: interconnection is the method of effectuating telephone service; it is not synonomous with the telephone service offering. In light of this we conclude not to restrict the types of entities that may provide the patch. Moreover, we will not limit the SMRS or third party equipment suppliers to providing the patch on a non-profit basis. We affirm that there are no restrictions on the manner in which the patch may be made available

[15] *Conference Report* No. 97-765, 97th Cong., 2nd Sess., August 18, 1982, at 54-56.

[16] See *Report and Order*, Docket No. 18921, 89 FCC 2d 766 (April 13, 1982); *Second Report and Order*, Docket No. 18262, 46 FCC 2d 752 (1974), reconsidered, *Memorandum Opinion and Order*, 51 FCC 2d 945 (1975), aff'd. sub nom., *NARUC v. FCC*, 525 F.2d 630 (D.C. Cir), cert. denied 425 U.S. 992 (1976); *Second Report and Order*, Docket No. 20846, supra; and *Resale and Shared Use*, supra.

[17] The legislation does not require that the costs be charged collectively to the participants and apportioned among them on a cooperative basis. We can envision circumstances in which both the carrier and the participants may prefer that the carrier be paid directly for each participant's share of the joint use rather than aggregate and apportion the costs on a cooperative sharing basis. We find no reason to preclude such a shared approach to telephone service, and we are allowing it.

[18] We will not require all applicants to submit detailed descriptions of how the interconnection of their land stations with the PSTN will be accomplished in each case. It is not necessary for that information to be filed with the Commission on a routine basis. Applicants will only be required to indicate on their applications that their stations will be interconnected. Licensees will be required to maintain detailed descriptions of how the interconnection is accomplished as part of their station records. This will mimize administrative burdens on both applicants and the Commission and will enable the Commission to obtain the information if necessary in particular cases to ensure compliance with tne new legislation and the Commission's Rules.

[19] Telocator says that the *Second Report and Order* implied that the patch must be cost-shared. Although we said that licensees or users may cost-share the patch if they wished, we did not require that the patch be provided only on a cost-shared basis.

[20] *Carterphone Device*, 13 FCC 2d 420, 424 (1968).

to users to satisfy their communications needs. [21]

5. Exchange Tariffs

20. Telocator and NARUC are concerned that we may have attempted to preempt existing state regulation of exchange tariffs. They ask that we clarify a footnote in the *Second Report and Order* which stated that we would retain jurisdiction to ensure that exchange tariffs do not unreasonably restrict private licensees' and users' interconnection rights. [22]

21. NARUC argues that this could be read as our improper assumption of jurisdiction over applicable state exchange tariffs. [23] Telocator contends that the states have an independent regulatory interest in regard to policing intrastate tariff provisions notwithstanding that the entity may be licensed under Part 90. Motorola takes the opposite position, arguing that systems licensed under Part 90 are private and not within the purview of state regulation.

22. The new legislation specifies that "(n)o state or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service. . . ." Pub. L. 97–259, *supra;* 47 U.S.C. 332(c)(3). The legislative history accompanying Pub. L. 97–259 makes it clear that "state and local authority is entirely preempted with respect to the activities of any person operating within the private land mobile services." [24] The interconnection of private land mobile systems with the public switched telephone network is now recognized as a statutory right to be protected by the federal government and honored by the states. In light of the new statute and the legislative history, we emphasize that we will retain jurisdiction, if necessary, to address in the future any exchange tariffs that might unreasonably restrict the right of private radio licensees and users to interconnect as guaranteed in the legislations. [25]

11. Licensee Control

23. Under the terms of the new legislation, interconnection is sanctioned as a permissible mode of operation in the private land mobile radio services subject only to restrictions on the manner in which the telephone service may be obtained. Once those restrictions have been satisfied, as described above, the legislation imposes no further limitations on permissible methods of interconnection. We interpret this new legislation as encouraging the Commission to minimize other restrictions burdening interconnection in the private land mobile services and, therefore, we are re-examining and clarifying certain other requirements we have imposed on interconnection.

24. In particular, the legislation imposes no special control requirements upon licensees of interconnected systems. In the *Second Report and Order*, we eliminated the requirement for special monitoring equipment at the base station transmitter site which would prevent the activation of the system when signals of other co-channel stations were present. This requirement was eliminated because interconnected service at 800 MHz is on a secondary basis to co-channel dispatch operations. We also eliminated the requirement at 800 MHz for a preliminary "alerting signal" when initial access to the system was made from a point within the public switched telephone network. Similarly, we eliminated the requirement for automatic timers that would limit interconnected communications to three minutes. This approach is consistent with the new legislation.

25. We permitted interconnection to be accomplished either manually or automatically under the supervision and control of a transmitter control operator at a fixed position in the authorized system of communication or automatically under the supervision and control of mobile operators. However, even though we eliminated the requirement for certain co-channel monitoring equipment, we imposed in our interconnection rules other burdens on licensees of interconnected systems. For manual interconnection, we required the station to be configured so that its communication could be aurally monitored by the control point operator at the fixed control point. (47 CFR 90.483(a)). We required similar aural monitoring capabilities in automatically interconnected systems supervised at the control point. (47 CFR 90.483 (b)(1)(i)). Where any licensee's transmitting facilities can be operated from dispatch points, the fixed control point operator must be able to monitor aurally all transmissions originating at the dispatch points. (47 CFR 90.463(d)).

26. In light of the new legislation, however, we have re-examined these aural monitoring requirements. Once private licensees and users have obtained their telephone service in accordance with the statute, they should not be further restricted in implementing their systems. Indeed, the legislation imposes no special control requirements upon any private radio system licensees, regardless of whether their systems are interconneced. Base station licensees should be free to utilize whatever methods they deem appropriate and necessary to ensure that their stations comply with permissible use rules. We see no reason to impose a prior screening duty. The imposition of a requirement for aural monitoring of a station's communications by the control point operator inhibits the use of digital voice and digital date technologies because it would require a "translation" of the station's message by the control operator and his or her prior approval of content before the message could be sent to the recipient. In other proceedings, the Commission has recognized that digital technology clearly serves the public interest and should be encouraged. [26] In light of these considerations, we will no longer require aural monitoring capabilities of a station's communications at its control point. Although licensees may utilize such equipment if they deem it necessary to prevent abuses of the permissible use rules, we will not require it. Instead, we will require only that licensees maintain a capability to terminate the transmission (e.g. by de-activating the transmitter) when they deem it appropriate or when required by the Commission. It is not necessary, in light of the legislation, to impose more stringent control rules. [27]

Miscellaneous

27. Telocator also requests that our rules be amended to make it clear that private land mobile licensees may obtain private radio equipment and ancillary facilities from "any duly authorized carrier." In essence, Telocator argues that RCC's should be permitted to function as third party equipment suppliers to private radio

[21] *See Interstate and Foreign Message Toll Telephone*, 59 FCC 2d 83 (1976); and 47 CFR Part 68 of the Commission's Rules concerning registration and technical requirements for interconnection of terminal equipment.

[22] *Second Report and Order, supra* at p. 753, footnote 14.

[23] See 47 U.S.C. 152(b) and 221(b).

[24] *Conference Report, supra*, at 56.

[25] *Cf. American Telephone and Telegraph Co.*, 71 FCC 2d 1 (1979).

[26] *First Report and Order*, PR Docket 80–41, FCC 81–186, adopted April 23, 1981; *Second Report and Order*, PR Docket 80–416, adopted March 18, 1982; *Second Report and Order*, PR Docket 79–191, 82–338, adopted July 22, 1982; *Report and Order*, PR Docket No. 82–470, Mimeo No. 32640, adopted January 20, 1983.

[27] We stress, however, that licensees must take reasonable precautions to avoid causing harmful interference to the transmissions of other licensees. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for interference. *See*, 47 CFR 90.403(e).

systems or, separately, as SMRS licensees. Motorola opposes this amendment, arguing that it goes beyond the issue of who may provide telephone service.

28. We have already made it clear in this *Order* that any "duly authorized carrier" may provide telephone service to private licensees and our rules do not restrict in any way the types of entities that may function as third parties in providing equipment or related facilities to users. Our rules also do not currently restrict the ability of RCC's to become eligible for licensing separately as SMRS's nor do the rules prevent SMRS licensees from separately being authorized to provide telephone service by the appropriate regulatory bodies. Because the rules do not contain these restrictions, we conclude it is unnecessary to add the additional rule Telocator requests.

Summary and Conclusions

29. We have reviewed our *Second Report and Order*, the parties' comments and the new legislation. We have concluded that the *Second Report and Order* is consistent with the legislation and the public interest but we have modified it in several respects. To summarize, private licensees and users will be permitted to obtain telephone service from any duly authorized carrier either individually or jointly on a non-profit cooperative basis. Additionally, SMRS base station licensees, equipment suppliers and any other third parties may act as ordering agents in arranging for telephone service for licensees and users if their intention is to obtain the service on a nonprofit, non-resale basis. The interconnection device itself is not part of the basic telephone service offering and there are no restrictions as to how licensees and users may secure it. Both SMRS base station licensees and third party equipment suppliers may provide the interconnection patch on an unrestricted basis. The telephone service itself, however, must not be resold in the private land mobile services. Lastly in regard to the telephone service, the Commission will retain jurisdiction to address in the future any exchange tariffs that might unreasonably infringe upon the statutory right of private systems to interconnect with a telephone exchange or interexchange service or facility.

30. Finally, in regard to licensee control requirements, we have amended the rules to eliminate the requirement that licensees maintain a capability to monitor their stations' communications aurally at the control point. However, we emphasize that they must take reasonable precautions to minimize the potential for interference and they must maintain the ability to de-activate the transmitter and to terminate the transmissions in appropriate circumstances.

31. Accordingly, it is ordered That effective July 5, 1983, Part 90 of the Commission's Rules is amended as shown in the Appendix, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. It is further ordered that the petitions for reconsideration and clarification in this proceeding are granted to the extent indicated herein and in all other respects are denied, and that this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

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

1. Section 90.129 is amended by the addition of a new paragraph (l) as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(l) Applicants for new land stations to be interconnected with the public switched telephone network must indicate on their applications that their stations will be interconnected.

* * * * *

2. Section 90.135 is amended by revising paragraph (b) and by adding paragraph (c) to read as follows:

§ 90.135 Modification of license.

* * * * *

(b) The following changes do not require an application for modification of license:

(1) Change in mailing address of licensee.

(2) Change in name only of licensee, without changes in the ownership, control, or corporate structure.

(3) Change in the number and location of station control points, or of control stations meeting the requirements of § 90.119(a)(2)(ii).

(4) Change in the number of mobile units for stations operating below 470 MHz; or in the number of mobile units operated by Radiolocation Service licensees.

(5) Change enabling interconnection of the land station with the public switched telephone network. See § 90.477.

(6) Change from unshared land station to shared land station. See 90.179.

(7) Any other change not listed in paragraph (a) of this section.

(c)(1) In case of a change listed in paragraph (b) (1) or (2) of this section, the licensee shall promptly notify the Commission of such change. The notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name or address, the call signs and classes of all radio stations authorized to the licensee under this part and the radio service in which each station is authorized. The notice shall be sent to the Federal Communications Commission, Gettysburg, Pennsylvania 17325 and to the Engineer in Charge of the Radio District in which the station is located, and a copy shall be maintained with the license of each station until a new license is issued.

(2) In the case of a change listed in paragraph (b) (3), (4), (5), (6) or (7) of this section the licensee shall notify the Commission within 30 days of the change. The notice may be filed on FCC Form 574 or may be contained in a letter specifying the nature of the change, the name and address of the licensee as appearing on Commission records, and the call sign, class, and radio service of the station. The notice shall be sent to: Federal Communications Commission, Gettsburg, Pennsylvania 17325.

§ 90.429 [Amended]

3. Section 90.429, "Control point and dispatch point requirements," is amended to eliminate the requirement for certain aural monitoring equipment by removing paragraph (d)(2) in its entirety, and re-numbering the remaining paragraphs as (d) (2) and (3), respectively.

4. Section 90.463 is amended to eliminate the requirement for certain aural monitoring equipment by removing paragraph (d)(1) and renumbering the remaining paragraphs ([d) introductory text and (d)(2)] as (d), to read as follows:

§ 90.463 Transmitter control points.

* * * * *

(d) The licensee's transmitting facilities may be operated from dispatch points, the fixed control point shall have equipment to permit the control operator to either disconnect the dispatch point circuits from the transmitter(s) or to render the transmitter(s) inoperative from any dispatch point being supervised.

* * * * *

5. Section 90.443 is amended by the addition of a new paragraph (d) as follows:

§ 90.443 Content of station records.

* * * * *

(d) For private land stations that are interconnected with the public switched telephone network, the licensee must maintain a detailed description of how interconnection is accomplished. When telephone service costs are shared, at least one licensee participating in the cost sharing arrangement must maintain cost sharing records. A report of the cost distribution must be placed in the licensee's station records and made available to participants in the sharing and the Commission upon request. See § 90.477.

6. Section 90.477 is amended by redesignating paragraphs (c)(1)—(c)(3) as paragraphs (d)(1)—(d)(3) and paragraph (d) as (e) and by revising paragraphs (a), (b), (c), (d) introductory text, (d)(1) and (d)(2) to read as follows:

§ 90.477 Interconnected systems.

(a) Applicants for new land stations to be interconnected with the public switched telephone network must indicate on their applications that their stations will be interconnected. Licensees of land stations that are not interconnected may interconnect their stations with the public switched telephone network and must notify the Commission within 30 days. See § 90.135. In all cases a detailed description of how interconnection is accomplished must be maintained by licensees as part of their station records. See 90.433.

(b) In the frequency ranges 806–821 MHz and 851–866 MHz, interconnection with the public switched telephone network is authorized under the following conditions:

(1) Operation in the interconnected mode will be on a secondary basis to dispatch operation. Upon a sufficient showing, the Commission may impose specific or general constraints upon a licensee's interconnection of a particular system. This restriction will not apply to trunked systems or on any channel assigned exclusively to one licensee.

(2) Interconnection may be accomplished at any location through a separate or shared interconnection device. When land stations subject to this part are multiple licensed or shared by authorized users, arrangements for telephone service must be made with a duly authorized carrier by users, licensees, or their authorized agents on a non-profit cost sharing basis. When telephone service costs are shared, at least one licensee participating in the cost sharing arrangement must maintain cost sharing records and the costs must be distributed at least once a year. Licensees, users, or their authorized agents may also make joint use arrangements with a duly authorized carrier and arrange that each licensee or user pay the carrier directly for the licensee's or user's share of the joint use of the shared telephone service. A report of the cost distribution must be placed in the licensee's station records and made available to participants in the sharing and the Commission upon request. In all cases, arrangements with the duly authorized carrier must disclose the number of licensees and users and the nature of the use.

(c) Interconnection of facilities in the Radiolocation Service (Subpart F) will not be permitted.

(d) In the frequency ranges below 800 MHz, interconnection with the public switched telephone network is authorized under the following conditions:

(1) Interconnection may be accomplished at any location. However, there may not be interconnection at a common point when the radio equipment is provided by a third party and telephone service is shared by the participants, except where systems are cost-shared on a non-profit basis with costs prorated among the users and third party involvement is limited to sale or lease of radio equipment and to incidental maintenance.

(2) When land stations subject to this part are multiple licensed or shared by authorized users, arrangements for telephone service must be made with a duly authorized carrier by users, licensees, or their authorized agents on a non-profit cost-shared basis.

7. Section 90.483 is amended to remove the requirement for certain aural monitoring equipment in interconnected systems, as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

(a) Where a system is interconnected manually at a fixed control point, the control point operator must maintain the capability to turn the carrier of the transmitter off or to de-activate the system completely when circumstances warrant such action.

(b) * * *

(i) The control point operator must maintain the capability to turn the carrier of the transmitter off or to de-activate the system completely when circumstances warrant such action.

[FR Doc. 83-16130 Filed 6-24-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 30617-111]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Rule-related notice; closure.

SUMMARY: NOAA closes the New England Area surf clam fishery. The action is necessary because harvest from the fishery has exceeded the annual quota. The closure will prevent harvests from significantly exceeding the annual quota.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Surf Clam Management Coordinator, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097; telephone: 617-228-3600.

SUPPLEMENTARY INFORMATION: The regulations implementing the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) contain at § 652.21 a procedure for establishing annual quotas for each of the fisheries managed under the FMP. A quota of 100,000 bushels of surf clams was established for 1983 for the New England Area under that procedure, and was published in the **Federal Register** on February 28, 1983 (48 FR 8283). On April 1, 1983, 50 percent of the quota was harvested, and the Regional Director, acting under the authority contained at § 652.22(b)(2), reduced fishing time to 12 hours per week in an attempt to control fishery harvests (**Federal Register**, March 29, 1983; 48 FR 13048).

The regulations also require, as provided in § 652.22(d) that if the Regional Director determines, based on logbook records, processor reports, vessel inspections, or other information, that the quota for surf clams or ocean quahogs for any time period will be exceeded, the Secretary of Commerce shall publish a notice in the **Federal Register** stating the determination and stating a date and time for closure of the fishery.

According to logbook records and the reports of statistical port samplers of the National Marine Fisheries Service, the harvest of surf clams from the New England Area reached 114,000 bushels on June 1, 1983. The Regional Director has therefore determined that the

100,000 bushel quota for surf clams in the New England Area for the year 1983 has been exceeded. Closure of the fishery for the remainder of the year will commence at 0001 hours on July 1, 1983. This closure applies only to surf clams taken in the fishery conservation zone in the New England Area. Harvesting of surf clams in the territorial sea, and harvesting of ocean quahogs in the territorial sea and the fishery conservation zone are not affected by this closure.

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291. (16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: June 22, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-17281 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 124
Monday, June 27, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 403

[Amdt. No. 3]

Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Peach Crop Insurance Regulations (7 CFR Part 403), effective for the 1984 and succeeding crop years, by (1) changing the policy to make it easier to read, and (2) adding fire and volcanic eruption as insurable causes of loss, (3) adding a provision to permit determinations of indemnities based on the acreage report in lieu of determinations made at loss adjustment time, (4) adding a 60-day claim for indemnity provision (5) adding a hail/fire provision for appraisals for uninsured causes, (6) adding a provision to determine FCIC's liability when the insured has other insurance against fire, (7) changing the cancellation/termination dates to conform to farming practices, (8) providing that any change in the policy will be available in the service office by a certain date, (9) adding a definition for "service office," (10) providing for unit determination when the acreage report is filed, and (11) adding a section concerning "descriptive headings." The intended effect of this rule is to update the policy for insuring peaches.

DATE: Written comments on this proposed rule must be submitted not later than August 26, 1983, to be sure of consideration.

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

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

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

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

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

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

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 403

Crop insurance, Peach.

Proposed Rule

PART 403—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Peach Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 403 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR 403.7(d) is amended by removing the Peach Crop Insurance Policy therein and substituting the following:

DEPARTMENT OF AGRICULTURE
FEDERAL CROP INSURANCE CORPORATION

Peach Crop Insurance Policy

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

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

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

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from:

(1) the following causes occurring within the insurance period: (a) frost; (b) freeze; (c) drought; (d) flood; (e) lightning; (f) hail; (g) wind; (h) hurricane; (i) tornado; (j) fire; (k) earthquake; or (l) volcanic eruption and

(2) an insufficient number of chilling hours to effectively break the dormant period;

(3) unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

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

(1) disease or insect infestation;

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

(3) the failure to follow recognized good peach farming practice;

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

(5) split pits and misshapen fruit regardless of the cause; or

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

2. Crop, acreage, and share insured.

a. The crop insured shall be a variety of peaches which are grown on insured acreage and for which we provide a level of insurance and premium rate is provided by the actuarial table.

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

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peaches at the time insurance attaches.

d. We do not insure any acreage:

(1) on which the trees have not reached the 4th growing season after being set out;

(2) having a minimum expected production of less than 100 bushels per acre on the date insurance attaches; or

(3) of a variety of peaches not established as adapted to the area or excluded by the actuarial table.

e. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage and share.

You shall report on our form:

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

b. your share at the time insurance attaches; and

c. the expected production per acre from such acreage.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peaches grown in the county. This report shall be submitted annually on or before January 10. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage and share or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance, levels of insurance, and prices for computing indemnities.

a. The amounts of insurance, levels of insurance, and prices for computing indemnities shall be contained in the actuarial table.

b. The dollar amount of insurance per acre for each crop year shall be the applicable amount shown in the following Amount of Insurance Table.

(1) for the purpose of computing premium, the dollar amount of insurance per acre shall be the amount corresponding with the expected production (as reported by you or as determined by us, whichever we shall elect) and the applicable level of insurance as shown in Columns A and B.

(2) For the purpose of determining any indemnity, where the amount of fruit remaining on the trees at the time of harvest is less than the expected production, the dollar amount of insurance shall be the amount shown in Columns C through H opposite the applicable level of insurance shown in Column B.

c. The price per bushel for computing indemnities shall be determined by us as follows:

(1) The price for fresh fruit shall be based upon the applicable average FOB shipping point price per ¾ bushel carton of U.S. extra No. 1 two-inch peaches (if not available, the next larger size for which a price is available) as reported by the Market News service of the Department of Agriculture for the seven consecutive market days commencing with the day harvest starts for the variety, as determined by us. Such price shall not be less than $4.00 per ¾ bushel carton.

(2) The price for peaches which are intended for processing, as determined by us, shall be the price per bushel received by you. Such price shall not be less than $2.00 per bushel.

d. If you do not elect a level of insurance or we determine your peaches are grown for processing, you shall have the medium level of insurance.

e. You may change the level of insurance on or before the closing date for submittiong applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance (based on the expected production when insurance attaches) times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIMUM ADJUSTMENT TABLE [1]

[Percentage adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	90	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	80	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percentage adjustments for unfavorable insurance experience]

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

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

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

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

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

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

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

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

6. Deductions for debt.

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

7. Insurance period.

Insurance on insured acreage attaches for each crop year on January 10 and ends at the earliest of:

a. total destruction of the peaches;

b. harvest; or

c. September 15 of the calendar year in which peaches are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice of:

(a) the date(s) of damage; and

(b) the cause(s) of damage.

(2) If an indemnity is to be claimed on any unit, you must give us notice:

(a) at least 15 days before the beginning of harvest;

(b) immediately, if damage occurs within the 15 days prior to harvest to during harvest; or

(c) by the calendar date for the end of the insurance period, if harvest will not begin by that date.

b. You must obtain written consent from us before you destroy any of the peaches which are not to be harvested.

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

9. Claim for indemnity.

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

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

(2) harvest of the unit; or

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

b. We shall not pay any indemnity unless you:

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

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

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

(1) substracting the dollar value of production from the dollar amount of insurance; and

(2) multiplying the remainder by your share.

The dollar value of production is obtained by multiplying the total production to be counted (see section 9e) by the applicable price for computing indemnities (see section 4c). The dollar amount of insurance is obtained by multiplying the applicable amount of insurance (see section 4b(2)) times the insured acreage.

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

e. The total production to be counted for a unit shall include all harvested and appraised production, as determined by us.

(1) The total production may be adjusted downward as a result of loss in quality because of an insured cause.

(2) Appraised production to be counted shall include:

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

(b) not less than the expected production per acre at the time insurance attached for any acreage which is abandoned, not inspected by us prior to the completion of harvest, put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised productions:

(a) is harvested; or

(b) is further damaged by an insured cause.

(4) We may delay the final appraisal until the extent of damage can be determined by us.

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

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

f. You shall not abandon any acreage to us.

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

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

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

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

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

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

10. Concealment or fraud.

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

11. Transfer of right to indemnity on insured share.

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

12. Assignment of indemnity.

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

13. Subrogation. (Recovery of loss from a third party.)

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

14. Records and access to farm.

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

15. Life of contract: Cancellation and termination.

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

b. This contract may be canceled by either you or us for any succeeding crop year by

giving written notice on or before the cancellation date preceding such crop year.

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

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

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

d. The cancellation and termination dates are:

State	Cancellation and termination dates
South Carolina	January 10.
All other states	December 31.

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

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

16. Contract changes.

We may change any terms and provisions of the contract from year to year. All contract changes shall be available at your service office by September 30 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of peach crop insurance:

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

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

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

d. "Harvest" means the picking of peaches from the tree or from the ground either by hand or machine for the purpose of marketing.

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

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

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

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

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

j. "Unit" means all insurable acreage of peaches in the county on the date insurance attaches for the crop year:

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

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

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

18. Descriptive headings.

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

9. Information collection requirements.

Information collection requirements contained in these regulations (7 CFR Part 403) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

Approved by the Board of Directors on April 26, 1983.

Dated: June 16, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 83-17002 Filed 6-24-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO-14-A59]

Milk in the New England Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a change in the New England milk order based on industry proposals considered at a public hearing in January 1983. The change removes Dukes County, Massachusetts, from the New England milk marketing area. The change is necessary to reflect current marketing conditions and to assure orderly marketing in the New England marketing area.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order. The amended order must be approved by at least two-thirds of the producers supplying the marketing area.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-6274.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments will promote more orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued January 3, 1983; published January 7, 1983 (48 FR 812).

Recommended Decision: Issued May 5, 1983; published May 10, 1983 (48 FR 20920).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of

practice (7 CFR Part 900), at Boston, Massachusetts, on January 26, 1983. Notice of such hearing was issued on January 3, 1983 and published January 7, 1983 (48 FR 812).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on May 5, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to: (1) the deletion of Dukes County, Massachusetts, from the New England milk marketing area; and (2) the re-zoning of a small portion of southwestern Connecticut from Zone 5 to Zone 8.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* Dukes County, Massachusetts, should be removed from the New England milk marketing area. Such action would allow Seaside Dairy Corporation (SDC) to continue to operate a dairy farm and milk processing plant on Martha's Vineyard Island without being subject to the pricing and pooling provisions of the New England milk order. The portion of Dukes County other than Martha's Vineyard consists of a number of small, privately owned islands with no retail outlets for fluid milk. For administrative convenience, all of Dukes County should be removed from the marketing area.

The operator of Seaside Dairy, which began its milk production and processing business in mid-1981, testified that no milk is purchased to supplement the dairy's own production, and that all of the dairy's output is distributed on Martha's Vineyard. He stated that Seaside Dairy is the only milk pasteurization plant on the Island, and has no capability for marketing milk in a form other than Class I. He estimated that the approximately 111,000 pounds of milk produced and processed by SDC in December 1982 represented 60 percent of the fluid milk sales on Martha's Vineyard. Milk from four Order 1 handlers located on the mainland is also distributed on the Vineyard. The witness estimated the other handlers' shares of the total fluid milk disposition in December 1982 to range from 2 to 18 percent each. There is a wide seasonal fluctuation in milk consumption on the Island due to summer vacationers who cause the summer population (July through September) of the Vineyard to be as much as eight times that in winter. The witness that SDC's share of the market for August 1982 was 29 percent, or only half of its share in December, when the population is just over 9,000 people.

The handler testified that because of the expense of transporting feed and supplies to the Island by ferry, the costs of operating both the dairy farm and the processing plant are substantially higher than those encountered by mainland producers and handlers. He stated that when combined with SDC's high operating costs, the effect of Federal order regulation is to threaten Seaside's economic survival by requiring Seaside to pay to the pool the difference between the Federal order Class I and blended prices. He pointed out that the continued operation of Seaside Dairy assures a reliable milk supply for the Island, which is subject to interruptions of supply from the mainland due to disruptions of ferry service. Ferry service has, he pointed out, been interrupted in the past by severe weather conditions and by labor difficulties and will continue to be subject to such disruptions in the future, jeopardizing milk (and food) supplies for the inhabitants of Martha's Vineyard.

Seaside's owner-operator asserted that removal of Dukes County from the New England marketing area would in no way result in disorderly marketing. Seaside is the only producer or handler that would cease to be pooled as a result of such an amendment. He claimed that regulated handlers from the mainland distributing milk on the Island would not be subject to unfair price competition as a result of Seaside's nonpool status because of SDC's higher costs of operation and because of minimum price regulation by the Massachusetts Milk Control Commission. The witness also pointed out that the cost of ferry transportation and Seaside's high costs of operation would make is extremely unlikely that Seaside would be able to ship milk in excess of the Vineyard's demand for its fluid milk products to the mainland, in either bulk or packaged form, at a price competitive with that charged by mainland handlers. The volume of sales by any of the mainland handlers which could be lost to SDC during the winter months was characterized by the witness as minor, since the largest of those handlers distributed only an estimated 33,000 pounds of milk on the Island in December 1982. Due to the large seasonal variation in fluid milk sales on the Island, the witness considered it unlikely that the market share of any of the mainland handlers would decline significantly during the July through September period in which most of their on-Island sales occur.

The witness testified that although Seaside Dairy is the only dairy farmer on the Vineyard who would be affected by loss of pool status, there are other persons on the Island who keep a few dairy cows, and whose milk Seaside would like to be able to purchase to augment its own production in order to sefisfy demand for its product. The witness indicated that even if Seaside Dairy qualified for producer-handler status, it could not purchase milk from other dairy farmers and avoid pooling as long as Dukes County remains part of the Order 1 marketing area. A farmer residing on Martha's Vineyard testified that he sells raw milk at his farm to summer residents, but in winter feeds most of the milk produced on his farm to his pigs because SDC cannot purchase it from him without incurring an additional pool obligation. He asserted that in the event Dukes County is deleted from the marketing area, any farmer supplying Seaside with raw milk would be assured a fair price for his milk by the Massachusetts Milk Control Commission.

Other witnesses testifying in favor of the deletion of Dukes County from the marketing area were the Massachusetts Commissioner of Agriculture and counsel for Seaside Dairy. The Commissioner emphasized the vulnerability of Martha's Vineyard residents to interruptions of their food supply, and the importance of SDC's existence to assure some local food production. He pointed out that Seaside Dairy employs five people year-round in an island economy whose heavy reliance on summer tourism results in high seasonal unemployment. He also maintained that the loss of returns to the thousands of Order 1 producers of removing Seaside Dairy's $1,200 monthly contribution to the New England pool would be negligible. The counsel for SDC testified relative to the history of dairy marketing on Martha's Vineyard and emphasized that the need for an on-Island source of milk supply has become more acute due to an increase in the year-round population of the Vineyard since the early 1960's when a milk processing plant on the Island discontinued operation.

Representatives of two pooled mainland handlers with fluid milk disposition on Martha's Vineyard and a representative of a large New England

cooperative association testified in opposition to the removal of Dukes County from the marketing area. Briefs opposing the proposal were filed on behalf of those parties and on behalf of a cooperative association and a federation of cooperatives. The opponents described the wide seasonal variation in sales on the Vineyard as requiring heavy reliance on supplemental supplies of fluid milk products from the mainland, and asserted that marketing conditions are not substantially different now than those in existence at the time the county was added to the marketing area. The handlers expressed concern that if production on the Island were encouraged to increase significantly, Vineyard producers would once again be relying on mainland Federal order handlers to balance their surplus production in winter as well as to supply seasonal Class I needs in summer.

The handler representatives claimed that without regulation Seaside Dairy would gain a sizable price advantage (6.5 cents per quart, according to one withness) over fully regulated mainland handlers, seriously endangering the principle of handler equity. They warned that displacement of the mainland handlers' winter sales on the Island could cause the network of distribution to break down and thereby jeopardize the ability of regulated handlers to supply milk to Vineyard consumers during the summer at a reasonable price. Furthermore, they argued, reduced demand for their products during winter months could result in the cessation of winter deliveries to the Vineyard due to higher per unit costs of distribution in winter. A concern that Seaside Dairy would attempt to expand its sales to Nantucket Island and disrupt the distribution network serving that location was also expressed.

Estimates to fluid milk sales on Martha's Vineyard presented by the Seaside Dairy repesentative were based on Seaside's actual production and sales as well as the most accurate information on sales by mainland handlers available to the representative. Those estimates showed August sales to be approximately double those in December. Of the four mainland handlers distributing milk on Martha's Vineyard, the H.P. Hood Company was estimated by the Seaside witness to have the largest share of total sales. The Hood Company spokesman, rather than use Hood's actual sales information, chose to base his estimate of sales patterns on the Island on per capita consumption information for New England. As a result, Hood's estimate of total summer sales on the Vineyard was nearly four times Seaside's estimate. The Hood Company spokesman estimated that Hood's share of sales represents 20 percent of total annual sales in Dukes County, and that Hood sells about three times as much milk on Martha's Vineyard in the summer months as it does during the rest of the year. These data would be more consistent with Seaside's estimates of total sales on the Island than a projection based on regional per capita consumption.

The witness testifying for the cooperative association asserted that changing the marketing area to solve one marketing difficutly would establish an undersirable precedent for dealing with future problems encountered by other handlers or producers. He stated that a preferable approach to dealing with the present situation would be for Seaside Dairy to pursue qualification under the Order 1 producer-handler definition, and thereby avoid pooling.

Dukes County has been part of a Federal order marketing area since July 1959, when it was added to the Southeastern New England marketing area at the request of Martha's Vineyard Cooperative Dairy, Inc. The cooperative wished to ensure that its distributing plant and member producers, all located on the Island, would not lose pool status during the summer months when the cooperative's receipts would be used primarily in Class I deposition on the Island. Prior to the summer of 1959, the cooperative had been a pool handler on the basis of its shipments to pool plants on the mainland. Loss of pool status during the summer months would have made the cooperative's milk ineligible for pooling during the following December through June, when demand on the Vineyard is limited and much of the milk would have to be moved to the mainland. Under nonpool status, milk so moved would be subject to "a return of no more than the Class II price less the substantial transportation charges involved in moving milk to the mainland. Such a return would seriously jeopardize the economy of the Island, of which dairying is an important segment." In adding Dukes County to the marketing area, the Secretary found that loss of pool status would inflict "unnecessary hardship on a small group of producers who have been generally associated with the market over an extended period of years * * *". The Vineyard was described as having "a substantial relationship with other parts of the marketing area from the standpoint of both receipts and dispositions of milk."[1]

Milk marketing conditions on Martha's Vineyard today are substantially different than those which suported the incorporation of Dukes County into the Southeastern New England marketing area in 1959. The interrelationship between Martha's Vineyard and the mainland handlers is much less involved at this time than it was when Dukes County was added to the marketing area. The cooperative which requested that the county be included in order to protect its pool status has long since been out of existence as have virtually all its producers, whose hardship as a result of exclusion from the marketwide pool was a major consideration in the addition of Dukes County to the marketing area. In 1959 approximately 20 milk producers located on the Island not only supplied milk for Class I needs on the Island but produced enough surplus to be shipped to mainland pool plants during the low production months of the year to qualify for pooling. In order to qualify for pooling under the Southeastern New England Federal order, as it had for some time, the Martha's Vineyard Cooperative had to ship at least 30 percent of its producer milk to pool distributing plants. Seaside Dairy has no surplus production and, according to testimony at the hearing, would find it economically disadvantageous in view of the high cost of moving milk to the mainland to produce milk in excess of demand for its fluid products, or to encourage other Vineyard producers to do so. If disposal of surplus milk to the mainland were economically feasible, it is unlikely that the Vineyard farmer who testified would be feeding his surplus production to his pigs.

A 1964 decision denied a proposal to remove Dukes County from the marketing area on the basis that a large majority of the fluid milk sales on the Vineyard were by regulated handlers. Although mainland pool handlers still account for a majority of Class I sales on the Island on an annual basis, Seaside Dairy clearly has a majority of those sales during nine months of the year. The existence of Seaside Dairy thus has resulted in a much smaller volume of milk required from mainland pool handlers to supplement Class I needs on the Island during most of the year. At the same time, summer increases in Class I needs on Martha's

[1] Official notice is hereby taken of the Acting Secretary's decision issued June 18, 1959 (24 FR 5156), adding Dukes County to the Southeastern New England milk order.

Vineyard provide an opportunity for mainland handlers to follow their regular customers to a vacation resort area, and offset the regular summer decline in demand for fluid milk products on the mainland.

The argument that removal of Dukes County from the New England marketing area would make it more difficult for the distributors serving the Island to adapt to the large seasonal fluctuations in fluid milk requirements is not persuasive. The record does not indicate that the regulatory status of Seaside Dairy will have any significant effect on the fluctuation in seasonal requirements for milk supplies from the mainland. During winter months, the volume of fluid milk supplied to the Island by any of the distributors is quite small, and has little potential for declining. Seaside's limited ability to expand summer production over winter levels would result in little impact on the volume of summer fluid milk sales needed on Martha's Vineyard from the mainland handlers. In the unlikely event that SDC were to acquire all of the winter fluid milk business, the regulated mainland handlers still would lose only a small amount of their total annual sales on the Island, and the amount of seasonal fluctuation would change very little. The seasonal fluctuations in milk supply required from the mainland handlers with Seaside Dairy as an unregulated handler could hardly be much greater than if SDC were to remain a fully regulated handler.

Mainland distributors serving the Vineyard are accustomed to supplying milk and other products on a highly seasonal basis. The potential loss of some fluid milk sales during the nine months per year when the population (and demand for all products) is at its lowest level would not appear to be a basis for curtailing or reducing delivery of the volume of fluid milk needed from the mainland during the winter. In addition to supplies of fluid milk, year-round Island residents would continue to require the importation from the mainland of Class II dairy products and all of the other items which they obtain from mainland distributors. The handlers who testified also supply the unregulated resort areas of Nantucket and Berkshire County, Massachusetts, where demand for fluid milk also fluctuates widely on a seasonal basis.

The 6.5-cent per quart price disadvantage to which opponents to the proposal claim the distributors of milk from the mainland would be subject if SDC ceased to be regulated by the Federal order is largely overstated. Two-thirds of Seaside's "advantage" is made up of the transportation costs of getting packaged milk from mainland processing plants to the ferry and across to the Vineyard by ferry. Seaside incurs similar costs in obtaining supplies for both its dairy and processing operation by means of the same transportation system, thereby cancelling out much of any price advantage obtained by producing milk on the Island. Furthermore, no cost advantage can increase Seaside Dairy's ability to expand sales past the potential winter demand for fluid milk on the Island. SDC would have no advantage in attempting to compete on the mainland with pooled handlers, since the cost of moving packaged milk there would more than cancel out any price advantage resulting from Seaside's lack of regulation.

The welfare of year-round residents of the Island would be best-served by the removal of Dukes County from the New England marketing area. During the winter months, when mainland handlers supply the smallest proportion of sales, ferry service is must vulnerable to interruption. Those most likely to be adversely affected by the lack of a dependable local milk supply are therefore the year/round residents of the Island. Seaside Dairy represents the most likely source of a local milk supply for Vineyard residents, and its existence should not be discouraged by regulation.

The local economy, a concern for which was a basis for including Dukes County in the marketing area in 1959, would clearly be benefited by the removal of the County from the marketing area in 1983. In a summer resort community such as Martha's Vineyard, year-round employment is a valuable contribution to the local economy. According to the hearing record, Seaside Dairy employs five people on a full year basis and thus is a definite asset to the economy of the Island. A further potential benefit to the Vineyard's economy is the opportunity for farmers located on the Island to sell their winter milk production to Seaside Dairy for human consumption. The farmers would welcome the supplemental income derived from such sales, and the operator of Seaside Dairy expressed his desire to use the milk of other Vinyard farmers if it were possible to obtain it for about the blended price rather than for the Class I price required under Federal order regulation. A situation in which milk eligible for fluid use is fed to livestock because of the presence of regulations inhibiting its use by a nearby handler represents an uneconomic use of resources when considered in light of the need to import fluid milk to the Island. It is not anticipated that an outlet for some supplemental supplies of milk on the Island would result in a surplus production problem. Ths costs of disposing of such surplus should act as a disincentive for farmers to produce milk beyond the limits of local winter demand.

A concern expressed by opponents of Proposal 1, that adoption of the proposal would create a precedent for any handler desiring to escape Federal order regulation to request that his sales area be withdrawn from the marketing area, is not well-grounded. The protection of the minimum price provisions of the order have little significance to SDC in its capacity as a dairy farmer. Dukes County is the only portion of the New England marketing area accessible only by ferry. The island location and the milk marketing channels necessary to supply such a location are unique. Measures adopted to deal with this situation would hardly create a basis for similar action in other circumstances. It is not anticipated that removal of Dukes County from the marketing area will make the competitive situation for regulated handlers of Martha's Vineyard much different than it is now.

2. *Pricing zones.* A proposal to designate a separate price zone for a small portion of southwestern Connecticut should not be adopted. Marcus Dairy, a proprietary handler pooled under the New England milk order and located at Danbury, Connecticut, proposed that locations in Fairfield County, Connecticut, that are within 15 miles of the New York-Connecticut border and north of the towns of Wilton, Weston, Easton, and Trumbull, be re-designated from Zone 5 to Zone 8. Such action would result in a 7.5-cent per hundredweight reduction in the price Marcus Dairy would be obligated to pay for producer milk used in Class I. The blended price paid to dairy farmers delivering milk to Marcus Dairy also would be reduced by 7.5 cents per hundredweight on all of their deliveries to Danbury.

The handler asserted that recent amendments to both New York-New Jersey and New England milk orders have caused the competitive situation at Danbury to become extremely disadvantageous to Marcus. The September 1981 amendment to the New York-New Jersey milk order (Order 2) reduced costs to New York handlers with whom Marcus competes by passing back to producers some of the farm-to-plant hauling costs previously paid by handlers. A few months later, an amendment to the New England milk

order (Order 1) effective January 1982 increased transportation allowances for milk moving from country to city locations withoug changing price relationships between Danbury and the lower-numbered, higher-priced zones of the New England marketing area, and without making any adjustments in Order 1 pricing to compensate for the changes in Order 2. The Danbury handler contended that both amendments gave its competitors substantial price advantage.

The representative for Marcus Dairy testified that without the proposed re-zoning, Marcus is subject to competitive disadvantage because of price misalignment with handlers regulated under both the New York-New Jersey and New England Federal milk orders. The inter-order price misalignment (with Order 2) was attributed by proponent to an Order 1 Class I price at Danbury that is 14.8 cents per hundredweight higher than the Order 2 Class I price at the same location. The handler claimed that its misalignment problem with New York handlers is aggravated by the fact that its principal competitors distributing milk in the New York counties of Dutchess, Putnam, and Westchester are located further from the New York metropolitan area than Marcus, and consequently are in lower-priced zones. Those Order 2 handlers therefore have more than the 14.8-cent advantage over Marcus in raw milk costs which exists at Danbury. According to proponent, the inter-order price misalignment at Danbury is the principal cause of the decline in the percentage of Marcus' total sales that are distributed in New York from 40 percent in 1978 to 20–25 percent at the present time. Proponent testified, however, that the decline in the New York percentage of total sales does not reflect a decline in volume. The volume of fluid milk sold by Marcus to be distributed in the three New York counties in which Marcus is licensed to market milk has, according to the witness, increased, but not in proportion with increased sales in Connecticut. The witness stated further that Marcus Dairy has applied for licenses to distribute milk in three additional New York counties.

The Marcus Dairy representative testified that the lower price at Danbury under Order 2 is an incentive for Marcus to so arrange its sales that the handler would be pooled under Order 2 rather than under Order 1. As a result of such action, he contended, dairy farmers delivering milk to Marcus would lose the benefit of the higher Order 1 blend price to producers, and all producers supplying the New England market would be subject to a lower blend price because of the loss to the pool of a handler with relatively high Class I use. The witness also pointed out that such a shift of regulation would result in a significant price advantage for Marcus over other Connecticut handlers located in Zone 5 of the New England marketing area. The 7.5-cent price change proposed for the Danbury location is, the witness explained, a compromise which would allow Marcus to compete freely in both orders without gaining the full 14.8-cent advantage over nearby Order 1 handlers which would be achieved by a shift to regulation under Order 2.

According to the handler representative, the 1982 Order 1 amendment was in error in two respects. First, by re-zoning western Connecticut from Zone 7 to Zone 5 and thereby maintaining the approximately 10-cent price difference between Boston/Providence and western Connecticut, the Department failed to recognize the effect increased hauling costs should have had on the price difference between those areas. Second, the witness claimed, retention of Danbury in the same zone as other plants in western Connecticut fails to take into account Danbury's relative proximity to the western milk supply for Order 1 and the "country plant" nature of the Danbury location. The witness described Danbury's location as between the other Zone 5 Connecticut plants and the western milk supply for Order 1 and only 3 miles from the Order 2 marketing area, with the population centers most accessible to Danbury being in New York State. He stated that other Connecticut handlers are located closer than Danbury to Connecticut population centers, and that Marcus Dairy must ship milk into those population centers in order to compete. Unless the errors of the 1982 amendment are corrected, the Marcus Dairy representative claimed, Marcus Dairy will continue to suffer a competitive disadvantage to both Order 1 handlers with whom Marcus competes in Connecticut, and its Order 2 competitors in New York.

Representatives of four proprietary handlers, two of whom are located in Zone 5, and two cooperative associations testified in opposition to Proposal No. 2. In addition, another cooperative association and a federation of cooperatives filed briefs opposing the proposed re-zoning. The opponents of the proposal denied that Marcus is subject to any competitive disadvantage in relation to either New England or New York handlers, and pointed to the growth in Marcus' sales in both New York and Connecticut to support their position. According to the opponents, the 1982 Order 1 amendment which changed the Order 1-Order 2 price difference at Danbury from 12.4 cents to 14.8 cents maintained close alignment of Order 1 and Order 2 pricing at that location. In support of their assertion that the 14.8-cent difference at Danbury does not represent any serious price misalignment, opponents of the proposition stated that there has been no significant shift of sales by Order 2 handlers into Order 1 as a result of the most recent changes to both orders, and, in fact, that there are no Order 2 handlers with sales in Connecticut.

In answer to Marcus' argument that the Danbury location should be in a lower-priced zone than the rest of western Connecticut, one witness pointed out that all of western Connecticut historically has been one zone and is a fairly contiguous metropolitan area. Another witness stated that the present Zone 5 is too small and too competitive an area to justify a 7.5-cent lower price in a small zone of townships. Several witnesses pointed out that with 75–80 percent of its sales in Connecticut, Marcus competes primarily with other Connecticut handlers. They stated that, as Marcus is a vigorous competitor in Connecticut and has expanded sales there greatly in the last few years, a 7.5-cent price advantage over other western Connecticut handlers would be unfair.

Opposing witnesses testified that the 1982 Order 1 amendment maintained stable price relationships among handlers in the former "nearby plant" zone. They supported the decision to not adjust prices further downward in a westerly direction by noting that the partial shift of the Order 1 production area from Vermont to New York, which was the basis of the zoning established by the 1978 Order 1 amendment, had reversed itself by 1981. A larger share of Order 1 production is coming from north of the marketing area now than was the case in 1977, the period on which the 1978 amendment was based.

The 1978 decision amending the New England milk order was quoted at length by the Marcus representative in support of his proposal. In that decision the area known as the "nearby plant" zone, which included all of Connecticut, Massachusetts (except Berkshire County) and Rhode Island in a single price zone, was divided into zones to assure that milk would be moved from the "country" production areas to the primary consumption area of Boston/Providence. A key finding in that decision was that the source of milk

production pooled under the New England order had been shifting from Vermont (north of Boston/Providence) to New York (west of Boston/Providence) over time, and that the shift should be reflected in price adjustments westward as well as northward. Western Connecticut was established as a lower-priced zone than Boston/Providence because "as the market shifts to greater dependence on supplies of milk from New York, it will become increasingly important to maintain a high enough price in the eastern consumption areas to attract this milk from beyond the consumption centers in the western portions of Connecticut and Massachusetts" (43 FR 45523). Greater downward price adjustments were found necessary for western Massachusetts as that area was closer than western Connecticut to the Vermont production area, as well as being much nearer than Boston/Providence to New York. There is no evidence in the present record to support a conclusion that the price difference between western Connecticut and Boston/Providence is not great enough to attract needed supplies of milk from beyond western Connecticut and Massachusetts to Boston/Providence.

There is no reason to increase the price difference between western Connecticut and Boston/Providence in order to reflect the growing importance of New York as a source of milk for the New England marketing area. As noted by opponents of the proposal, the shift of production area from Vermont to New York observed in 1978 has reversed itself. In December 1976, 28.1 percent of Order 1 producer milk was produced in New York. By December 1981, New York milk comprised only 23.4 percent of the Order 1 pool. New York production pooled under Order 1 has declined not only as a proportion of the New England pool, but in terms of volume as well. Milk produced in New York and pooled in New England declined by more than 13 million pounds from December 1976 to December 1981. Nor has the source of New York milk in Order 1 shifted from northern New York to southern New York, as suggested by Marcus. The portion of southeastern New York that is more accessible to Danbury than to other parts of the New England marketing area is the area including Delaware, Greene and Columbia counties, and those to the south. In those counties, production declined by nearly 10 million pounds from December 1976 to December 1981, and from 43.4 percent to 39.3 percent of New York production pooled under Order 1. Production from counties north of Delaware, Greene, and Columbia declined by only 3.4 million pounds over the same period, but increased as a percentage of New York production pooled in New England from 56.6 percent to 60.7 percent. The milk from New York producers that is most readily available to Marcus Dairy has, therefore, declined not only in relation to other milk supplies pooled under the New England order, but has decreased by 20 percent in terms of volume.

At the same time, the volume of milk distributed by Marcus Dairy has increased greatly. According to the Marcus representative's testimony, the proportion of Marcus' total sales distributed within New York State has declined from 40 percent to 20–25 percent while the volume of those sales has not declined at all. A conclusion that Marcus' total sales must have at least doubled, and sales in Connecticut more than doubled, since 1978 is inescapable. As the supply of milk produced by southern New York dairy farmers for the New England market dwindles and Marcus' sales increase, the ability of Marcus Dairy to attract a sufficient supply of milk from the southern New York area, which is its primary source of supply, becomes increasingly questionable. A reduction of the blend price paid to producers delivering milk to Danbury would appear to be unwise if Marcus is to continue to obtain a sufficient supply of milk from nearby sources.

Given the expansion of Marcus' sales during the last few years, it is difficult to justify any reduction of the Class I price at Danbury on the basis that Marcus Dairy suffers from a competitive disadvantage. The handler's pending applications to add three New York counties to its distribution area would tend to indicate that Marcus is well able to compete successfully in an area of New York State where its principal competitors are handlers from the New York City area who are subject to higher raw milk costs and handlers from more distant zones who must bear the costs of transporting packaged milk to the sales area. The fact that no New York handlers compete in Connecticut while Marcus is able to expand sales in New York, given licensing approval, is a strong reason to deny a price reduction at Danbury on the basis of inter-order misalignment in favor of New York handlers.

The record does not support a claim that Marcus Dairy is subject to a competitive disadvantage in relation to other Connecticut Zone 5 handlers. Since 1978, Marcus' sales in Connecticut have more than doubled although all of the handlers in western Connecticut have been subject to the same price adjustments for some time. 1980 Census data show that the population of western Connecticut increased by less than two percent from 1970 to 1980. Marcus Dairy's ability to gain sales in Connecticut at the expense of other handlers clearly has not been impaired by any competitive disadvantage in terms of raw milk procurement costs.

The argument that Danbury is a "country" location in relation to other Connecticut locations is not valid. In prior decisions, Hartford, which is approximately 60 miles from Danbury, has been described as a population center in the sense of being the largest city in the heavily populated area of southwestern Connecticut. Hartford is, however, not located in the center of the area, but at its northeast corner. According to the 1980 Census, Fairfield County, in which Danbury is located, is the second most populous Connecticut county, after Hartford County, by only a very small margin. New Haven County, located between Fairfield and Hartford Counties, falls in third place by less than 50,000 people. Southwestern Connecticut is, as one witness described it, a fairly contiguous metropolitan area, and plants throughout southwestern Connecticut must compete for milk supplies produced in "country" locations in Vermont and New York where the bulk of the market's milk supply is produced.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the New England order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be

amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Ruling on Exceptions.

No exceptions were filed.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk,[1] and an ORDER amending the order regulating the handling of milk in the New England marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

March 1983 is hereby determined to be the representative period of the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

[1] Filed as part of the original document.

List of Subjects in 7 CFR Part 1001

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 21, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [2] amending the order, regulating the handling of milk in the New England Marketing Area.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New England marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on May 5, 1983, and published in the **Federal Register** on May 10, 1983 (48 FR 20920), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

§ 1001.2 [Amended]

In § 1001.2, under the heading "Massachusetts", the County of "Dukes" is removed.

[FR Doc. 83-17170 Filed 6-24-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1124

[Docket No. AO-368-A12]

Milk in the Oregon-Washington Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would increase the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. Also, it would change the method used to calculate the daily base and the base milk production of a producer under the base-excess plan of the order. The decision is based on industry proposals considered at a public hearing held February 15, 1983. The proposed order amendments are necessary to reflect current marketing conditions and to assure orderly marketing in the Oregon-Washington marketing area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued January 25, 1983; published January 28, 1983 (48 FR 3995).

Recommended Decision: Issued May 16, 1983; published May 19, 1983 (48 FR 22580).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Portland, Oregon, on February 15, 1983. Notice of such hearing was issued on January 25, 1983 (48 FR 3995).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on May 16, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions to it.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

A new paragraph is substituted for the first paragraph of Issue No. 2, and two new paragraphs are added at the end of Issue No. 2.

The material issues on the record of the hearing relate to:

1. Diversion provisions.
2. Base-excess plan.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion provisions.* The diversion provisions should be revised to permit cooperative associations and pool plant handlers to divert to nonpool plants up to 60 percent of the total quantity of milk they receive from producers each month.

Presently, the order permits cooperative associations and pool plant handlers to divert up to 50 percent of such milk to nonpool plants. The order also permits two or more cooperative associations to have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if an agreement is filed in writing with the market administrator. This decision does not change the provision allowing cooperatives to combine their receipts for the purpose of determining allowable diversions.

The 10 percentage point increase in diversion limits was proposed by Northwest Dairymen's Association (NDA). The association's witness testified that the higher diversion limit is necessary due to a substantial increase milk production for the market in recent years. Further, the witness said, the increased milk production has necessitated the suspension of diversion limits of the order on occasion over the past few years.

Another reason cited by proponent for increasing the diversion limits were changes it has made in the disposal of excess milk since NDA merged with Mayflower Farms in September 1981. To obtain greater operating efficiency, producer milk which previously was received and manufactured into Class III products at proponent's Portland, Oregon, pool plant now is diverted to its nonpool manufacturing plants at Chehalis, Issaquah and Lynden, Washington. Proponent's witness said that all of the milk which had been used to manufacture cheese in the Portland plant now is diverted to its nonpool plant at Chehalis, where it is manufactured into cheese. The witness said that skim milk drying has been discontinued at the Portland plane except for periods when other NDA manufacturing plants are operating at capacity. He said these changes have resulted in a 15 million pound per month reduction in milk receipts at the Portland pool plant and a corresponding increase in the quantity of milk diverted to nonpool plants. He said, that while these changes have not increased the total quantity of reserve milk used for manufacturing, they have increased the quantity subject to the diversion limitations and decreased the quantity received at pool plants.

Another witness who testified on behalf of proponent said that he was the President of Mayflower Farms at the time it merged with NDA and that prior to the merger the Portland pool plant was owned by Mayflower. He said that the reduction in manufacturing operations at the Portland pool plant was necessary to achieve operating efficiencies. The witness said that the cheese operation at the Portland plant is very costly due to the age of the equipment, the problem of whey disposal and the high sewage charges imposed by the City of Portland. He said that the dryer at Portland is very inefficient and loses a significant percentage of the milk solids it processes.

The witness said that a reason that Mayflower merged with NDA was to replace the Portland plant with a larger more efficient plant by pooling the resources of the respective cooperatives. He said that efficiencies at the new operation can be fully achieved only if the diversion limits are raised 10 percentage points. Otherwise, he claimed, at certain times of the year the cooperative will have to operate the inefficient dryer at Portland to keep producers pooled while running the more efficient Chehalis plant at less than optimum capacity.

Four other cooperative associations whose members supply milk to the Oregon-Washington market supported the proposal. Two of these cooperative associations have an agreement with proponent to combine their receipts for the purpose of computing the diversion percentage. The witnesses representing these four associations testified that the diversion limits should be increased to accommodate the orderly disposition of the increasing supplies of reserve milk that are being associated with the market. One of them said that these supplies will be associated with the pool in one way or another and if the diversion limits are set too low uneconomic movements of milk could result.

Increasing the diversion limits from 50 to 60 percent should allow cooperative associations and handlers to dispose of the increasing quantities of reserve milk that are associated with the market in an orderly and efficient manner without the need for uneconomic deliveries of milk to pool plants merely for the purpose of pooling the milk. The hearing record indicates that there has been no increase in the number of producers associated with the market during those months in recent years when the diversion limits were suspended. Further, it indicates that with a 60 percent diversion limit the reserve supplies of the market could be handled in an efficient manner without encouraging the association of additional supplies through the diversion process.

During the three-year period of 1980 through 1982 receipts from producers increased 7 percent while producer milk utilized in Class I outlets decreased 2 percent. The record evidence indicates

also that milk supplies during 1983 may increase 8 percent over 1982.

The increase in producer receipts and decrease in Class I sales caused NDA to obtain a suspension of the 50 percent diversion limit in 1980 and 1982 for the months of April through August and October through December. In December 1982, the suspension was extended to include the additional months of January through April 1983. The hearing record indicates that these suspensions allowed the cooperative associations that combine their receipts for the purpose of determining allowable diversions to save on extra hauling and handling of milk merely for the purpose of maintaining the producer status of their members who supply the market. Proponent's witness said that the diversion limit was not suspended for the month of September 1982. As a consequence, it was necessary for NDA to receive 5 million pounds of milk at pool plants and then transfer it to nonpool manufacturing plants solely for the purpose of keeping their combined diversions within the 50 percent limit. If this milk had been diverted to nonpool plants, he said, the combined diversions of the 3 cooperatives would have represented about 55 percent of their total producer milk receipts. He estimated it cost at least $30,000 to deliver this milk to pool plants and then transfer it to the nonpool plants. He and the other witnesses who supported the proposal indicated that a 60 percent diversion limit would be sufficient to accommodate both present supply conditions and some anticipated increased milk production.

From the evidence it is apparent that the 3 cooperatives that combine their receipts and diversions cannot meet the order's present diversion limits during most months. Accordingly, relaxing the limits by 10 percentage points, as herein provided, is necessary and appropriate to allow the cooperatives to keep their available milk supplies pooled in an orderly manner without causing a needless expenditure of money for the extra transportation of that milk solely to keep it pooled.

A producer who is a director of an Oregon dairy organization testified in opposition to the proposal. He said his concern was that raising the diversion limits would merely allow more out-of-state milk to be associated with the market which, in turn, would reduce the order's blend prices.

The opposing argument is not overriding in this matter. Relaxing diversion limits as adopted herein will provide greater flexibility in the handling of the increase in the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of pooling it under the order.

Also, it is not likely that blend prices under the order would be materially enhanced if the order's present diversion limits were continued. As indicated, the record shows cooperatives could take the necessary steps to assure the pooling of their available milk supplies even though hauling inefficiencies would be involved Moreover, the buildup in reserve milk supplies on the market is a result of increased milk production of producers who are already associated with the market.

2. *Base-excess plan.* The daily base of each producer whose milk was received at a pool plant, or diverted as producer milk from a pool plant, during the four months in each January–December period in which the average daily receipts of total producer milk are lowest, should be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days in such period. A producer who delivers producer milk for only part of such period, but not less than 90 days, should have a base computed by dividing such producer's total deliveries of producer milk by the number of days in the four-month period, less the number of days for which no producer milk is delivered. Also, in determining the amount of base milk delivered by a producer during each month, the order provisions should be revised to have the daily base of a producer multiplied by the number of days in the month. If milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of the amount computed by multiplying his daily base times the number of days in the month less the number of days for which no producer milk is delivered.

The order provides that a daily base shall be computed for each producer who delivers milk on not less than 90 days during the 4 months in each January–December period in which the average daily receipts of total producer milk are lowest. Presently, this daily base is computed for each producer by dividing such producer's total pounds of milk delivered during such base-earning period by the number of days of production represented by his deliveries. The daily base is used in the following year, beginning February 1 and continuing through the next 12 months, to determine the quantity of base milk delivered by a producer during each such month. Presently, the quantity of base milk delivered is computed by multiplying the producer's daily base by the number of days of delivery in such month.

To illustrate how the change to calendar days could affect the quantity of daily base computed for a producer, an example using the month of January is set forth below. It should be noted that although the example uses just the month of January in actually computing a producer's daily base, his deliveries of milk in the 4 months of lowest total production during the year are used. Most producers on the market have their milk delivered on an every-other-day basis. A producer on every-other-day delivery who had his milk delivered on January 1 and on each of the other odd numbered days in that month would have 32 days' production delivered during the month. Under the present order provisions, in computing the producer's daily base, his total deliveries in January would be divided by 32, the days of production those deliveries represent. Under the provisions adopted herein, his total deliveries would be divided by 31, the number of days in the month. Conversely, a producer on every-other-day delivery who had his milk delivered on the even numbered days in January would have 30 days' production delivered during that month. Presently, this producer's January deliveries would be divided by 30, the days of production they represent, while under the provisions adopted herein his January deliveries still would be divided by 31.

The example cited in the previous paragraph also illustrates how the change to calendar days could affect the quantity of base milk delivered by a producer each month. a producer on every-other-day delivery who had his milk delivered on the odd numbered days during January would, under the present order provisions, have his daily base multiplied by 32 (his production days) to determine his quantity of base milk for January. Under the provisions adopted herein, his daily base would be multiplied by 31 (calendar days in the month). Conversely, a producer who had his milk delivered on the even numbered days in January would, under the present provisions, have his daily base multiplied by 30 while under the provisions adopted herein his daily base would be multiplied by 31. The impact these changes would have had on the amount of daily base computed for producers in 1980 and 1981 and on the amount of base milk delivered by producers in 1981 and 1982 is described later in this decision.

These revisions in the order's base-excess plan were proposed by NDA. It's

witness said the changes are needed to simplify the method of calculating a producer's daily base and of determining the quantity of base milk delivered by a producer each month. Proponent's witness testified that under the present order provisions the computations cannot be automated because the number of days' production associated with deliveries during a specific month will vary from producer to producer.

The positions taken at the hearing by other witnesses concerning the proposed changes in the base-excess plan provisions varied considerably. The witness representing a cooperation association which has its headquarters in Idaho supported the proposed changes even though the cooperative basically is opposed to the use of base-excess plans in milk orders. The representative of one of the cooperative associations that combined producer receipts with proponent for the purpose of computing allowable diversions stated that his cooperative association supported using calendar days in computing the quantity of base milk delivered by a producer each month but that the cooperative took no position with respect to using calendar days in computing a producer's daily base. Witnesses for the two other cooperative associations that presented testimony said that they took no position with respect to either of the proposed changes in the base-excess plan provisions.

The proposed changes to use calendar days in computing a producer's daily base and the quantity of base milk delivered by a producer each month should be adopted. These changes would significantly reduce the costs associated with making these computations without appreciably affecting either the quantity of daily base or the quantity of base milk delivered.

Testimony in the record indicates that substantial savings could be realized by adoption of the calendar day method for computing daily base and base milk production. Presently, cooperative associations, handlers and the market administrator must compute the daily base and base milk production for each producer manually because the days of production associated with the delivery of milk during a specified period do not necessarily coincide with the number of days in that period. Consequently, the delivery pattern of each producer must be examined individually to determine the production days associated with his deliveries during the period. Proponent's witness said that it is very time-consuming for the cooperative to compute the quantity of base milk manually each month for each of its 325 Oregon-Washington producers. He said that adoption of the proposals would amount to a savings of 2 days' labor each month to the cooperative. The representative of another cooperative association testified that adoption of the proposals would save them a day's labor each month. The market administrator's representative testified that about 10 percent of the cost of administering the Oregon-Washington order involves the manual computation of each producer's daily base and verifying each producer's monthly base milk production. He indicated that administrative expenses would be reduced by this 10 percent if these computations were automated.

A witness who formerly was the President of Mayflower Farms and a producer who is a director of an Oregon dairy organization testified in opposition to the proposal that would use calendar days in computing a producer's daily base. Opponents said that producers want their daily base computed on their actual days of production rather than on calendar days because individual producers could gain or lose a day's production when the computation is based on calendar days. The former President of Mayflower Farms said that for a base-making period of October through January (123 days) and assuming an average producer delivers 5,000 pounds per day, gaining or losing 1 day's production would raise or lower a producer's daily base by 41 pounds. He said that the difference between the base and excess prices averages about $1.10 per hundredweight. Thus, he said, the 41-pound gain or loss would amount to about 45 cents per day or $164 per year. The difference between the gain and loss would amount to $328 per year. The opponent said that producers do not want to gamble on gaining or losing this much money each year depending on which procurement route they are on.

In a post-hearing brief, NDA deferred to the producer witnesses who testified against the proposal and withdrew its support for the proposal it had submitted for hearing. The withdrawal, however, does not change the strong evidence in the record for adopting the proposal.

The arguments of opponents are not persuasive concerning the revisions adopted herein. A representative of the market administrator's office presented the results of a study that compared the use of calendar days to counting the days of production when calculating the producer's daily base and base milk production. He said that a random sample of 47 producers were selected from all the producers delivering milk to the Oregon-Washington market who were issued a daily base in February 1981 and 1982. The results of the study showed that for 1981 the differences in the daily base calculation for the 47 producers ranged from an increase of 56 pounds to a decrease of 86 pounds and averaged 4.26 pounds less per producer using the calendar day method. The 4.26-pound decrease in the average daily base represented 0.1 percent of the 4,379-pound average daily base issued for the entire market.

For 1982, the differences in the daily base calculation for the 47 producers ranged from an increase of 181 pounds to a decrease of 124 pounds and averaged 3.74-pounds more per producer using the calendar day method. The 3.74 pound increase in the average daily base represented 0.08 percent of the 4,687-pound average daily base issued for the entire market.

The study also showed that for 22 producers who would have had an increase in their daily base for 1982 using the calendar day method 18 of them would have had a decrease for 1981. Likewise, for the 15 producers whose daily base would have decreased for 1982, eleven would have had an increase for 1981.

The results of an additional study showing the relationship between 5 producers' 1982 daily base and their total base deliveries for the 11 months of February through December 1982 calculated by the calendar days and production days method also was presented by the market administrator's witness. He said that this study was done to show the impact on individual producers of using calendar days under various circumstances. Three of these five producers delivered throughout the entire base making and base paying periods but on different days. One producer's daily base remained the same under both methods and even though his deliveries of base milk varied from month to month his total base milk deliveries for the entire 11 months also were the same under both methods. Another producer's daily base would have increased 23 pounds and his total base milk deliveries would have increased 7,682 pounds (0.8 percent of his 940,544 pounds base milk production) for the 11 months if the calendar month method had been used. During those 11 months in 1982 the base price exceeded the excess price by an average of $1.06 per hundredweight. Thus, this producer for the entire 11-month period would have gained a total

of $81. The third producer's daily base would have decreased 21 pounds, his total base milk deliveries would have decreased 7,014 pounds (0.8 percent of his 846,690 pounds base milk production) and he would have lost a total of $74 during the 11 months if the calendar day method had been used.

One of the remaining two producers in the study had his milk degraded one day during the base-earning period and on three separate occasions during the eleven-month base paying period. During the base-earning period this producer had 2 more delivery days using the calendar day method as compared to the days of production method. This would have caused his daily base to decrease by 46 pounds and his total base milk deliveries would have decreased 15,134, pounds (1.6 percent of his 917,581 pounds base milk production). This producer would have lost $160 for the eleven month period.

The fifth producer in the study was associated with more than one Federal order during both the base making and the eleven month base paying period. In the computation, the producer's days of production that were regulated under the other order were subtracted from the total days in the month. During the base-earning period his deliveries to the other order and his scheduled deliveries to the Oregon-Washington market resulted in his having one less delivery day using the calendar day method. This would have caused his daily base to increase by 24 pounds and his total base milk deliveries to increase 15,267 pounds (1.9 percent of his 800,223 pounds base milk production). This producer would have gained $162 for the eleven month period.

Each of the four producers in this study who would have gained or lost total base milk production because of the change to calendar days delivered more than 800,000 of base milk during the eleven months. The average base price for those eleven months was $13.54. The 800,000 pounds of base milk multiplied by the $13.54 average price would have resulted in the total value of base milk for each producer exceeding $108,000. Thus, a gain or loss of up to $162 would have represented less than two-tenths of 1 percent of their total value of base milk. Therefore, the impact this change would have on individual producers would be very minimal and would not outweigh the savings described previously that could be realized by computing daily base and base milk production using automated machines.

An exception filed by NDA and Consolidated Dairy Products Company stated that the study presented at the hearing by the Department was limited to just a few producers, none of whom appeared to have unusual delivery patterns during their base-building months. Exceptors said that it should not be concluded that the impact on all producers would be minimal. Exceptor speculated about the possible impact of other types of deliveries and concluded that the change proposed herein should not be adopted.

We have evaluated the evidence in the light of the exception. We noted that exceptors said that they have no criticism of the validity of the statiscal study presented in evidence by the Department. The sampling of producers was statistically sound. The deviations suggested by exceptors did not occur on the representative sample because there were none. On the basis of the evidence in the record, which was based on a statistically valid sampling of producers, we must conclude that the impact of the proposed change on producers should be minimal as stated in the recommended decision. The exception, therefore, is denied.

Ruling on Proposed Finding and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determination set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) the parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Oregon-Washington marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Oregon-Washington marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be

[1] Filed as part of the original document.

amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: June 21, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [2] Amending the Order, Regulating the Handling of Milk in the Oregon-Washington Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oregon-Washington marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on May 16, 1983, and published in the **Federal Register** on May 19, 1983 (48 FR 22580), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. In § 1124.11 paragraphs (a) and (b) are revised to read as follows:

§ 1124.11 Producer.

* * * * *

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at a pool plant, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September-November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at his pool plant(s) and who is not a member of a cooperative associations which is diverting milk pursuant to paragraph (a) of this section during the month, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September-November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month;

* * * * *

2. In § 1124.19 paragraph (b) is revised to read as follows:

§1124.19 Base, base milk, and excess milk.

* * * * *

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of the amount computed by multiplying his daily base times the number of days in the month less the number of days for which no producer milk is delivered; or

(2) His monthly base computed pursuant to § 1124.65(b).

* * * * *

3. In § 1124.65 paragraph (a) is revised to read as follows:

§ 1124.65 Computation of producer bases.

* * * * *

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant during the four months in each January-December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days in such period: *Provided*, that a producer who delivers producers milk for only part of such period, but not less than 90 days, shall have a daily base computed by dividing such producer's total deliveries of producer milk by the number of days in the four-month period less the number of days for which no producer milk is delivered. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year:

(1) Any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) A dairy farmer who qualified as a producer-handler pursuant to § 1124.12 for not less than 90 days during the period specified in paragraph (a) of this section shall upon becoming a producer have a base computed as if he had been a producer during such period.

* * * * *

[FR Doc. 83-17250 Filed 6-24-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-46-AD]

Airworthiness Directives; British Aerospace Aircraft Group Model H.S. 748 Series 2A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an airworthiness directive (AD) that would require repetitive inspections for fatigue cracks and repairs, as necessary, of certain components of the wing structure. Cracks have been found in these components on high flying time airplanes which have the potential of leading to structural failure.

DATES: Comments must be received no later than August 16, 1983.

ADDRESSES: The applicable service information and copies may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-46-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of reports of cracks on certain components of the wing structure of British Aerospace Aircraft H.S. 748 series 2A airplanes. These cracks have developed on high flying time aircraft and they appear in the bottom wing skin, stringers, and reinforcing plates in the area between rib 70 to the inboard side of rib 134 along the wingspan and from the rear spar boom angle to stringer 14 along the chord. The growth of these cracks will weaken the wing structure which eventually can lead to structural failure. The CAA has classified British Aerospace Aircraft Group H.S. 748 Service Bulletin 57/34, Revision 3, as mandatory.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require repetitive inspections and repairs, if needed, of certain sections of the wing skin and wing structure.

One airplane will be affected by this AD, it will take approximately 12 manhours to accomplish the required actions, and the average labor cost is estimated to be $35 per manhour. Repair parts are estimated at $250. Based on these figures, the total cost impact of this AD is estimated to be $670. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

British Aerospace Aircraft Group: Applies to Model H.S. 748 series 2A airplanes, certificated in all categories.

To prevent failure of the wing structure, accomplish the following, unless already accomplished:

1. Prior to accumulation of 10,000 landings, or within the next 750 landings after the effective date of this AD, whichever occurs later, visually inspect the wing structure in accordance with paragraph 2.B of the Accomplishment Instructions of British Aerospace H.S. 748 Aircraft Service Bulletin 57/34, Revision 3, dated March 3, 1980.

2. Repetitive inspections must be performed in accordance with the intervals defined in Table No. 1 of the service bulletin.

3. If cracks are found as a result of the inspections required by paragraphs 1 or 2 of this AD, perform the actions prescribed by paragraph 2.D of the service bulletin.

4. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

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

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

(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 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on June 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-17187 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-53-AD]

Airworthiness Directives: British Aerospace Model HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require modification of the fan housing of the air conditioning system in certain British Aerospace Aircraft Group Model H.S. 125 series airplanes. This action is necessary to protect the main engine beam in the event of a burst fan failure. The manufacturer has determined that the fan housing alone provides inadequate protection.

DATE: Comments must be received no later than August 15, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the address shown below.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-53-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Service Bulletin 21-123-(2815), Revision 2, as mandatory. Investigations have determined that a burst failure of the cold air unit fan can damage the main engine beam because the fan housing provides inadequate protection. The service bulletin prescribes installation of a fragmentation guard around the fan housing.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the installation of a fragmentation guard around the fan housing of the cold air unit.

It is estimated that 100 U.S. registered airplanes will be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour.

Repair parts are estimated at $25 per airplane. Based on these figures, the total cost impact of this AD would be $13,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace Aircraft Group (Hatfield-Chester Division): Applies to Model HS 125 (pre-Modification 251600) with serial numbers as follows: Series 1, 25004 to 25006 inclusive and 25008 to 25010 inclusive; Series 1B, 25025, 25063, 25067, 25085, 25089, 25090, 25092, 25094, 25105, and 25106; Series 3B, 25015, 25062, and 25069; series 1A, 25013, 25037, 25058, and 25080; and any aircraft equipped with British Aerospace Dynamics Group air conditioning unit.

Compliance required as indicated, unless already accomplished. To protect the main engine beam from a burst failure of the cold air unit fan, accomplish the following:

1. Install a fragmentation guard around the fan housing of the cold air unit in accordance with the "Accomplishment Instructions" of British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Series Aircraft Service Bulletin 21-123-(2815), Revision 2, dated October 29, 1982, within 120 days after the effective date of this AD.

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

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

(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 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed

rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on June 16, 1983.

David E. Jones,

Acting Director

Northwest Mountain Region.

[FR Doc. 83-17188 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 83-NM-52-AD]

Airworthiness Directives: British Aerospace Aircraft Group Model H.S. 748 Series 2A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposal rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require repetitive inspections and repairs, if necessary, of certain components of the wing structure on British Aerospace Model H.S. 748 series 2A airplances. Cracks have been found in these components on airplanes with more than 20,000 hours time in service. The unchecked growth of these cracks can lead to structural failure.

DATES: Comments must be received no later than August 16, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-52-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Aircraft Group Model H.S. 748 Service Bulletin 57/55 as mandatory. Cracks have been reported in the stringer splice (banana) brackets on the bottom wing skin at rib "O" on aircraft which had completed about 25,000 hours time in service. Cracks have also been found on the lower boom angles at rib "O". The service bulletin prescibes inspections in the wing structure from the inboard edge of the butt straps and rib "O" through to rib "16" and prescribes repairs or component replacement, if necessary.

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

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, and AD is proposed that would require inspection of certain components of the wing structure and component replacement or repairs, as necessary.

One U.S. registered airplane will be affected by this AD. It will take approximately 30 manhours to accomplish the required actions, and the average labor cost will be $35 per manhour. Repair parts are estimated at $500. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,500. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

British Aerospace Aircraft Group:

Applies to Model H.S. 748 series 2A airplanes, certificated in all categories. To prevent wing structural failure, accomplish the following, unless already accomplished:

1. Prior to the accumulation of 10,000 landings or within 500 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,000 landings, visually inspect the wing structure components for cracks in accordance with subparagraphs 2.B(1) through 2.B(5) and repair, if necessary, in accordance with paragraph 2.D. of British Aerospace Aircraft Group H.S. 748 Service Bulletin 57/55, Revision 2, dated March 1980.

2. Prior to the accumulation of 10,000 landings or within 2,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals of 2,500 landings, perform a radiographic examination of the lower wing surface butt straps and wing skin of both wings in accordance with subparagraph 2.B(6), and repair if necessary, in accordance with paragraph 2.D. of the service bulletin.

3. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

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

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

(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 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial

number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on June 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-17190 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-47-AD]

Airworthiness Directives; British Aerospace Aircraft Group Model H.S. 748 Series 2A and 2B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes an airworthiness directive (AD) that would require radiographic examinations for corrosion of the engine subframe, and repairs, if needed, on British Aerospace Aircraft Group Model H.S. 748 series 2A and 2B airplanes. Internal corrosion in the tubes of several subframe struts has been revealed by routine inspections. If left uncorrected, the corrosion could weaken the tubes and lead to structural failure.

DATE: Comments must be received no later than August 16, 1983.

ADDRESSES: The applicable service information and copies may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Aircraft Group H.S. 748 Service Bulletin 54/25, Revision 2, as mandatory. Corrosion has been found in the inner walls of the tubes of engine subframe struts following radiographic examinations of ten years (or older) in-service airplanes. If the corrosion is present in a large area of the walls or deep enough, it can lead to structural failure. The service bulletin prescribes inspections, repairs, or replacements as necessary.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the actions mentioned above.

It is estimated that 5 U.S. registered airplanes will be affected by this AD, that it will take approximately 30 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $2,000 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $15,250. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

British Aerospace Aircraft Group: Applies to Model H.S. 748 series 2A and 2B airplanes certificated in all categories. To prevent engine subframe structural failure due to corrosion, accomplish the following, unless already accomplished:

1. Prior to attaining 7 years from date of manufacture, or within the next 12 months after the effective date of this AD, whichever occurs later, inspect engine subframe struts and perform the appropriate actions in accordance with paragraph 2, Accomplishment Instructions, of British Aerospace Aircraft Group H.S. 748 Service Bulletin 54/25, Revision 2, dated February 5, 1979.

2. Repeat the inspections of the engine subframe struts of airplanes that have accomplished the requirements of paragraph 1, above, at seven year intervals from the last inspection.

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

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

(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 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on June 17, 1983.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 83-17193 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CC: LR-95-77]

Reporting Requirements for Nonqualified Stock Options; Withdrawal of Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of proposed regulations.

SUMMARY: The purpose of this document is to withdraw the notice of proposed rulemaking that appeared in the Federal Register on September 20, 1977 (42 FR 47222). That notice proposed amendments to the regulations under section 83 of the Internal Revenue Code of 1954. The amendments would have established certain reporting requirements for persons who either claim a deduction for the grant of a compensatory option that is not traded on an established market or include such an option in gross income when it is granted. Public comments on the proposed regulations were received and a public hearing on the proposed regulations was held March 20, 1978. After considering the comments received in writing and the comments made at the public hearing, the Internal Revenue Service is withdrawing the proposed regulations.

FOR FURTHER INFORMATION CONTACT: Philip R. Bosco of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3238, not a toll-free call.

Drafting Information

The principal author of this notice of withdrawal is Philip R. Bosco of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the notice of withdrawal, both on matters of substance and style.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, the notice of proposed rulemaking on reporting requirements for nonqualified stock options published in the Federal Register (42 FR 47222) on September 20, 1977, is hereby withdrawn.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-17209 Filed 6-24-83; 8:45 am]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 472]

Northern Sonoma Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in California to be known as "Northern Sonoma." This proposal is the result of a petition submitted by E. & J. Gallo Winery on behalf of its subsidiary Frei Brothers, a winery located in Healdsburg, California. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

DATE: Wrtitten comments must be received by August 11, 1983.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 472).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7602)

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision AFT-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in Sonoma County, California, as a viticultural area to be known as "Northern Sonoma." The area consists of approximately 329,000 acres. There are approximately 28,000 acres of grapevines and 72 wineries in the proposed area.

The proposed Northern Sonoma viticultural area is located entirely within the proposed North Coast viticultural area (Notice No. 404, 47 FR 1151). The following six proposed viticultural areas are located entirely within the proposed Northern Sonoma viticultural area:

Chalk Hill, Notice No. 411, 47 FR 20321.

Alexander Valley, Notice No. 418, 47 FR 36221.

Sonoma County Green Valley, Notice No. 432, 47 FR 51425.

Dry Creek Valley, Notice No. 445, 48 FR 1315.

Russian River Valley, Notice No. 450, 48 FR 5280.

Knights Valley, Notice No. 454, 48 FR 5961.

Both alternative boundaries of the proposed Alexander Valley area are entirely within the proposed Northern Sonoma area. The proposed Sonoma County Green Valley and Chalk Hill areas are each entirely within the proposed Russian River Valley area. The boundaries of the proposed Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley areas all fit perfectly together dividing northern Sonoma County into four proposed areas. The proposed Northern Sonoma area uses all of the outer boundaries of these four areas with the exception of an area southwest of the proposed Dry Creek Valley area and west of the proposed Russian River Valley area. This area has nearly 300 acres of grapevines and possesses the same geographical features as the rest of the proposed Northern Sonoma area.

The petitioner claims that the proposed Northern Sonoma area represents all of the grapegrowing land in Sonoma County which is not (1) owned by Mr. Fred J. Fisher, or (2) in the approved Sonoma Valley viticulatural area prescribed in § 9.29. Mr. Fred J. Fisher owns vineyards located on Mayacamas Mountain along the Sonoma-Napa County line. He has specifically asked to have his vineyards excluded from both the Sonoma Valley and Northern Sonoma viticultural areas because he believes that the geographical features of Mayacamas Mountain distinguish it from the rest of Sonoma County.

Name. The petition contains evidence that the name "Northern Sonoma" was used as a community name by the *Healdsburg Enterpirse*, a local newpaper, beginning in 1887. The petitioner claims that a winery was established in Geyserville in 1890 named "North Sonoma Winery"; the winery was destroyed by fire three years later. *The Pacific Wine and Spirits Review*, reporting in 1910 that Sonoma County would soon become the leading grape producing county in the state, attributes the growth partly to the construction of three new wineries in Northern Sonoma. In January 1920, the *Healdsburg Enterprise* and the *Santa Rosa Press Democrat* both reported on a movement to divide northern and southern Sonoma County into two counties. These reports support the concept of "Northern Sonoma" as a distinct community. The petitioner claims that a winery was established in Geyserville at the end of Prohibition named "Northern Sonoma Wines, Inc." By the mid-1940's, this winery was producing approximately one millior gallons annually, most of which was sold in bulk to bottlers. This winery was phased out of existence in 1953. The petitioner claims that, beginning in 1950, tourism publications of the county government and local chambers of commerce have divided the county into "Northern Sonoma" and other regions. A series of articles published in 1973 and 1974 in *Wines & Vines*, a wine industry trade magazine, describe the "northern district" of Sonoma County. This "northern district" is approximately the same as the proposed viticultural area. In the spring of 1980, another effort was initiated to establish a separate county comprising the northern part of Sonoma County. This also supports the idea that "Northern Sonoma" may be identified as a separate community.

Geographical features. The proposed area is separated from the approved Sonoma Valley viticultural area in southern Sonoma County by the city of Santa Rosa and Cotati Valley which are urban or undergoing urbanization. The petitioner claims that these and other urban areas distinguish the proposed area from areas located south of the proposed boundary. The petitioner claims that the area west of the proposed boundary is mountainous and relatively inaccessible. A small part of the western portion of the proposed area is also mountainous and inaccessible. However, for convenience the boundary was drawn as a series of straight lines connecting features which can be found conveniently on the map. North and east of the proposed area are Mendocino, Lake, and Napa Counties.

The boundary of the proposed viticultural area is described in the proposed § 9.70.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

ATF is not able to assign a realistic economic value to using "Northern Sonoma" as an appellation of origin. Since the benefits to be derived from using any viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area.

Any value derived form using the "Northern Sonoma" appellation of origin would apply equally to all grape growers in the proposed area.

Therefore ATF believes that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With E.O. 12291

In compliance with Executive Order 12291 the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Northern Sonoma viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

ATF also seeks comments which discuss the following questions:

1. Can the size of the proposed area be reduced from 329,000 acres to a smaller area which includes the 26,000 acres of grapevines?

2. Is there sufficient evidence to establish that the name "Northern Sonoma" applies to the proposed area?

3. Would consumers be confused by the name "Northern Sonoma" (*i.e.* Would consumers believe that "Northern Sonoma" is part of the approved Sonoma Valley viticultural area, or that Sonoma Valley is part of "Northern Sonoma")?

4. Is there sufficient evidence to approve the proposed area within the

proposed "North Coast" viticultural area?

5. Is there sufficient evidence to approve the overlaying of any or all of the six proposed viticultural areas located within the proposed "Northern Sonoma" area?

Comments received before the closing date will be carefully considered. Comments received afte the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosing to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.70. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.70 Northern Sonoma.

Par. 2. Subpart C is amended by adding § 9.70 to read as follows:

§ 9.70 Northern Sonoma.

(a) *Name.* The name of the viticultural area described in this section is "Northern Sonoma."

(b) *Approved map.* The approved map for determining the boundary of the Northern Sonoma viticultural area is the U.S.G.S. Topographic Map of Sonoma County, California, scale 1:100,000, dated 1970.

(c) *Boundary.* The Northern Sonoma viticultural area is located in Sonoma County, California. The boundary description in paragraphs (c)(1)–(c)(23) of this section includes (in parentheses) the local names of roads which are not identified by name on the map.

(1) The beginning point is the point, in the town of Monte Rio, at which a secondary highway (Bohemian Highway) crosses the Russian River.

(2) The boundary follows this secondary highway (Bohemian Highway) southeasterly across the Russian River, along Dutch Bill Creek, through the towns of Camp Meeker, Occidental, and Freestone, then northeasterly to the point at which it is joined by State Highway 12.

(3) The boundary follows State Highway 12 through the town of Sebastopol to the point, near a bench mark at elevaion 96 feet, at which it intersects a northbound secondary highway (Fulton Road) leading toward the town of Fulton.

(4) The boundary follows secondary highway (Fulton Road) north to the town of Fulton where it intersects an east-west secondary highway (River Road).

(5) The boundary follows this secondary highway (River Road)—

(i) east past U.S. Highway 101 (where the name of this secondary highway changes to Mark West Springs Road),

(ii) easterly, then northerly to the town of Mark West Springs (where the name of this secondary highway changes to Porter Road).

(iii) easterly to the town of Petrified Forest (where the name of this secondary highway changes to Petrified Forest Road), and

(iv) northeasterly to the Sonoma County-Napa County line.

(6) The boundary follows the Sonoma County-Napa County line northerly to the Sonoma County-Lake County line.

(7) The boundary follows the Sonoma County-Lake County line northwesterly to the section line on the north side of Section 11, Township 10 North, Range 8 West.

(8) The boundary follows this section line west to the northwest corner of Section 9, Township 10 North, Range 8, West.

(9) The boundary follows the section line south to the southwest corner of Section 4, Township 9 North, Range 8 West.

(10) The boundary proceeds in a straight line northwest to the northeast corner of Section 36, Township 10 North, Range 9 West.

(11) The boundary follows the section line north to the northeast corner of section 13, Township 10 North, Range 9, West.

(12) The boundary proceeds in a straight line northwesterly to the intersection of 38° 45' North latitude parallel and 122° 52' 30" West longitude meridian.

(13) The boundary proceeds in a straight line northwesterly to the southeast corner of Section 4, Township 11 North, Range 10 West.

(14) The boundary follows the section line north to the Sonoma County-Mendocino County line.

(15) The boundary follows the Sonoma County-Mendocino County line west then south to the southwest corner of Section 34, Township 12 North, Range 11 West.

(16) The boundary proceeds in a straight line southeasterly to the southeast corner of Section 3, Township 11 North, Range 11 West.

(17) The boundary follows the section line and its extension south to 38° 45' North latitude parallel.

(18) The boundary follows this latitude parallel west to the west line of Section 5, Township 10 North Range 11 West.

(19) The boundary follows the section line south to the southeast corner of Section 18, Township 9 North, Range 11 West.

(20) The boundary proceeds in a straight line southwesterly approximately 5 miles to the peak of Big Oak Mountain, elevation 1404 feet.

(21) The boundary proceeds in a straight line southerly approximately 2¾ miles to the peak of Pole Mountain, elevation 2204 feet.

(22) The boundary proceeds in a straight line southeasterly approximately 4¾ miles to the confluence of Austin Creek and the Russian River.

(23) The boundary follows the Russian River northeasterly, then southeasterly to the beginning point.

Approved: June 21, 1983

Stephen E. Higgins,

Director.

[FR Doc. 83-17257 Filed 6-24-83; 8:45 am]

BILLING CODE 4810-31-M

---

27 CFR Part 9

[Notice No. 471]

Walla Walla Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in southeast Washington and northeast Oregon, to be known as "Walla Walla Valley." This proposal is the result of a petition submitted by the Walla Walla Valley Wine Growers Association. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

DATE: Written comments must be received by August 11, 1983.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Notice No. 471).

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area east of Lake Wallula in the southeast portion of Washington State and the northeast portion of Oregon as a viticultural area to be known as "Walla Walla Valley." The area in question is bounded by three physical features—the Touchet Slope, Horse Heaven Ridge, and the Blue Mountains.

The proposed area consists of approximately 279 square miles (178,560 acres), contains two bonded wineries, and about 60 acres of grapes from several vineyards.

The petitioner claims that the proposed viticultural area is known by the name "Walla Walla Valley" for the following reasons:

(a) It has been known as such since it was settled in the 1850's, even prior to the creation of the States Oregon and Washington.

(b) The Walla Walla River flows through the valley into Walla Walla County, Washington.

(c) U.S.G.S. 7.5 minute quadrangle map titled Walla Walla identifies the area as the Walla Walla Valley.

Historical and current usage of "Walla Walla Valley" is supported by the following:

(a) In *The Horticultural Heritage of Walla Walla County, 1818–1977*, Joe J. Locati makes reference to the Walla Walla Valley as "including Touchet and Milton-Freewater . . . the Walla Walla River Basin."

(b) The *Geology and Groundwater Resources of the Walla Walla River Basin, Washington-Oregon*, published in 1965, states that the "Walla Walla Valley descends from about 1,500' at the foot of the mountain slopes to about 500' where the river cuts through the bedrock ridge near Divide, astride the Oregon/Washington border."

(c) The U.S.D.A. in the *Soil Survey of Umatilla County, Oregon*, describes the Walla Walla Valley as extending from the northeast part of Umatilla County into the State of Washington.

Additional historical information concerning the proposed viticultural area:

(a) Circa 1871, Frank Orselli, as described by Locati in *The Horticultural History of Walla Walla County*, was growing fruits and vegetables, including grapes, and making wine.

(b) An 1891 agricultural directory showed the Offner Ranch, near the city of Walla Walla, containing a small acreage of grapes.

(c) As mentioned in the *Walla Walla Daily Statesman* on March 4, 1899, Walla Walla Valley was described as having soil perfect for grape growing, and a climate well suited for grape cultivation.

(d) During the 1950's, Mr. Bert Pesciallo bonded the Blue Mountain Vineyards, near Umapine, Oregon, the first bonded winery in the valley, producing approximately 500 gallons per year. He states that his father also grew grapes in the same vicinity from 1900 to 1910.

The petitioner claims that the proposed viticultural area is distinguished from the surrounding area for the following reasons:

(a) The valley has produced mainly fruit and vegetable crops in an irrigated setting, as opposed to the surrounding dryland areas which largely produce grain crops.

(b) The Walla Walla Valley receives 10–20 inches of precipitation per year (average 12.5 inches), while the Columbia Basin to the west and north receives less than 10 inches per year, and the Blue Mountains to the east and southeast receive 25–45 inches.

(c) The growing season within the proposed area is between 190 and 220 days, longest within the surrounding six counties.

(d) The average maximum and minimum temperatures within the proposed area are 65/42 F, while the surrounding areas range from a high of 66 F to a low of 34 F.

(e) The soils of the valley are all basically loess derived soils. Most are classed as I or II irrigated capability units by the Soil Conservation Service. This is in contrast to the soils west of the Touchet River and along the Snake and Columbia Rivers which are droughty and are classified as Class IV and VI. Soils to the west around Wallula

Gap on the Columbia River, and to the east in the Blue Mountains are considered not suitable for cultivation.

The boundaries of the proposed Walla Walla Valley viticultural area may be found on two U.S.G.S. topographical maps in the scale of 1:250,000 series: Walla Walla, WA, 1953, (limited revision 1963) and Pendleton, OR, 1953 (revised 1973).

The boundaries, as proposed by the petitioner, are described in § 9.91.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will no have a significant economic impact on a substantial number of small entities. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for the Walla Walla Valley viticultural area. However, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative Practice and Procedure, Viticultural Areas, Consumer Protection, and Wine.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.91 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.91 Walla Walla Valley.

Par. 2. Subpart C is amended by adding § 9.91 to read as follows:

§ 9.91 Walla Walla Valley.

(a) *Name.* The name of the viticultural area described in ths section is "Walla Walla Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Walla Walla Valley Viticultural area are two U.S.G.S. maps. The maps are titled "Walla Walla", Washington; Oregon 1953 (limited revision 1963) and "Pendleton", Oregon; Washington 1953 (revised 1973).

(c) *Boundaries.* The Walla Walla Valley viticultural area, located in the southeast portion of Washington State and the northeast portion of Oregon, consists of approximately 178,560 acres. The boundaries of the Walla Walla Valley viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: Beginning at a point just northeast of Dixie, Washington, in T8N/R37E, at the intersection of Highway 3 and Mud Creek; Southwest along State Highway 3 approximately 4 miles to its intersection with the Northern Pacific railroad in T7N/R37E; Follow the Northern Pacific in a generally westerly direction, through Walla Walla; Continue west, then northwest along the railroad line, past Pedigo Station until it intersects the secondary road in T8N/R34E; thence, southwest in a straight line approximately 12½ miles until it meets the Union Pacific railroad at the intersection of T7N and R32E/R33E; South along R32E/R33E for 2 miles until it intersects the 1,000' contour line; Follow the 1,000' contour line in a southeast direction until it intersects the Union Pacific railroad at T5N/R35E; South along said track until it intersects Dry Creek in T4N/R35E; Southeast along Dry Creek until it intersects the 2,000' contour line; Continue in a northeast direction along the 2,000' contour line until it intersects Dry Creek in T7N/R38E; North along Dry Creek, approximately 3½ miles, until it intersects the Northern Pacific railroad at T8N/R37E; Continue in a northeast direction along said track until it intersects Mud Creek; Follow Mud Creek in a northwest direction to the beginning point where it intersects State Highway 3.

Approved: June 21, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-17256 filed 6-24-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule.

SUMMARY: On December 8, 1982, the State of Kentucky submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. The amendment pertains to the reclamation of private lands and rights of entry. OSM is seeking public comment on the proposed amendment.

DATES: Written comments on the amendment must be received on or before 5:00 p.m. July 8, 1983. A public hearing will be held on the amendment if sufficient requests for a hearing are received by the above date and time.

ADDRESSES: Copies of the full text of the proposed amendment are available for review at the following locations:

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Kentucky 40601

Office of Surface Mining, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Comments received after 5:00 p.m., July 8, 1983 will not ordinarily be considered or included in the administrative record for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Division of Abandoned Mine Lands, Office of Surface Mining and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW, Washington, D.C. 20240, Telephone (202) 343-7921.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Kentucky AMLR Plan was approved on May 18, 1982. On December 8, 1982, Kentucky submitted a proposed amendment to the Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revisions of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

Representatives of OSM's Field Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at the address indicated above under "Addresses," at the request of members of the public to receive their advice and recommendations concerning the proposed Kentucky amendment. Persons wishing to meet with representatives of the Field Director's Office during this time period may place such request with Robert A. Penn telephone (606) 253-2216.

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contracts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable cost, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Kentucky amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Kentucky amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Kentucky amendment can be approved if:

1. The Assistance Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State had the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirements of the OSM, AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the amendment is in compliance with all applicable State and Federal laws and regulations.

Contents of the Kentucky amendment are:

1. The issuance, waiver, levy and satisfaction of liens resulting from reclamation of private lands.

2. Rights of entry on private lands for reclamation and abatement work.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: June 20, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83–17118 Filed 6–24–83; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Part 946

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Virginia

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement between the Department of the Interior and the Commonwealth of Virginia for the regulation of surface coal mining and reclamation operations on Federal lands in Virginia under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until July 28, 1983. The pulic hearing, if held, will be at the location shown in **"ADDRESSES,"** below, on July 25, 1983, beginning at 10 a.m. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under **"FOR FURTHER INFORMATION CONTACT"** by July 18, 1983.

ADDRESSES: Written comments must be mailed to:

Administrative Record R&I–14, Office of Surface Mining, Room 5315–L, 1951 Constitution Avenue, NW., Washington, D.C. 20240

or hand carried to:

Office of Surface Mining, Administrative Record R&I–14, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

Commonwealth of Virginia, Department of Conservation and Economic Development, Division of Mined Land Reclamation, 622 Powell Avenue, Big Stone Gap, Virginia 24219, telephone (703) 523–2925.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

The public hearing will be held at the Office of Surface Mining, Lebanon Area Office, Flanagan & Carroll Streets, Lebanon, Virginia. If no person has contacted OSM by July 18, 1983, to express an interest in testifying at the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Federal Lands Specialist, Office of Surface Mining, 1951 Constitution Avenue NW., Washington, D.C. 20240, telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: The preamble to the proposed rulemaking is divided into four parts as follows:

I. Public Commenting Procedures.
II. The Commonwealth of Virginia's Application.
III. Summary of the Terms of the Proposed Cooperative Agreement.
IV. Administrative Matters.

I. Public Commenting Procedures

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. In order to schedule or attend such meetings, contact the individual listed under **"FOR FURTHER INFORMATION CONTACT."** OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts with State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in

a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreements shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by sound reasons. OSM requests that five copies of written comments be submitted.

All written comments must be received by OSM by 5:00 p.m. local time on the date the comment period closes. Comments received after that hour will not necessarily be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received after the close of the comment period or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, all public comments received, and a transcript of the public hearing will be made available for public review in the Office of Surface Mining at the address noted above.

II. The Commonwealth of Virginia's Application

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow for the State and the Secretary of the Interior to enter into a permanent program cooperative argeement if the State has an approved State program for the regulation of surface coal mining operations on non-Federal and non-Indian lands. On March 26, 1982, a formal request for a permanent program cooperative agreement between the Department of the Interior and the Commonwealth of Virginia was received from the Commonwealth of Virginia. The purpose of this proposed rulemaking is to begin the process for adopting such a cooperative agreement which would give Virginia authority to administer its approved permanent regulatory program on Federal lands in Virginia.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (emphasis added). The Commonwealth of Virginia has a State program which was conditionally approved by the Secretary and became effective upon publication in the **Federal Register** on December 15, 1981 (46 FR 61088).

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. For recent amendments of these rules see 48 FR 6912 (February 16, 1983). Section 745.11(b) of the regulations requires that certain information be submitted with a request for a permanent program cooperative agreement except to the extent that the information has previously been included in the State program. Virginia specified in its request for a cooperative agreement that the information relating to the budget, other programs, organization, inspection and enforcement duties and staffing of the State regulatory authority (which is the Division of Mined Land Reclamation of the Department of Conservation and Economic Development) was previously submitted with the State program submission. The written certification from the Office of the Attorney General required by 30 CFR 745.11(b) was included with the request for a cooperative agreement. The Assistant Attorney General concluded that "there are no Virginia statutory constraints which would limit the capability of the Virginia Department of Conservation and Economic Development to fully comply with the requirements of 30 CFR Part 745 * * *"

III. Summary of the Terms of the Proposed Cooperative Agreement

The cooperative agreement proposed here differs from the initial draft of a proposed permanent program cooperative agreement submitted by Virginia on March 26, 1982. The differences between the two versions are a result of meetings and discussions between representatives of the Commonwealth of Virginia and the Department of the Interior. A summary of the revised terms of the proposed permanent program cooperative agreement appears below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and further discussion with the Commonwealth of Virginia.

Article I: Introduction, Purpose, and Responsible Administrative Agency

This Article would set forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the cooperative agreement are also listed along with the name of the responsible administrative agency within the Commonwealth of Virginia, which is the Division of Mined Land Reclamation (DMLR) of the Department of Conservation and Economic Development. This Article would also include a provision clarifying the separate role of the Forest Service in regulating surface coal mining operations on lands administered by it. Most of the lands which would be covered by this agreement are administered by the Forest Service and would also be subject to regulation by it. This would also apply to any other Federal agency with respect to lands under its jurisdiction.

Article II: Effective Date

This Article would provide that the cooperative agreement would be effective 30 days after publication as a final rule in the **Federal Register**. The agreement would remain in effect until terminated as provided in Article X.

Article III: Definitions

This Article would specify which definitions would apply. It states that the terms and phrases used in the cooperative agreement which are defined in 30 CFR Parts 700, 701, and 740 would be given the meanings set forth in those definitions.

Article IV: Applicability

Article IV would provide that, in accordance with the Federal lands program in 30 CFR Part 740, the laws, rules, terms and conditions of Virginia's State program are applicable to Federal lands in Virginia except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. The cooperative agreement would not apply to surface coal mining and reclamation operations on lands containing leased Federal coal. Also excluded from the scope of the cooperative agreement would be the authorities and responsibilities reserved to the Secretary pursuant to the Act and 30 CFR 745.13.

When the State is acting as the regulatory authority, its appealable decisions and orders would be reviewed by the State reviewing authority, which is the Board of Reclamation. Decisions and orders issued by the Department would be appealable to the Department's Office of Hearings and Appeals.

Article V: Requirements for Cooperative Agreement

This Article would mutually bind the Governor and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in Article V. The responsible agency in the Commonwealth of Virginia for purposes of administering this cooperative agreement would be DMLR, which has and must continue to have authority under State law to carry out this cooperative agreement.

Article V also would provide that the State may be reimbursed pursuant to section 705(c) of the Act upon application by DMLR and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal Government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the States. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and DMLR will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A-102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income).

Paragraph C of Article V would require the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph C would also provide for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph D of Article V would require the State to maintain the necessary personnel to fully implement this agreement.

Paragraph E of Article V would require the State to ensure itself of access to the necessary equipment, laboratories, and other facilities to perform inspections and other analyses required to carry out the requirements of the agreement.

Paragraph F of Article V would provide that the amount of fees charged to permit applicants be determined in accordance with Virginia's approved State program. These fees would be retained by the State but would offset any Federal grant made to the State under 30 CFR Part 735 and paragraph B of Article V.

Article VI: Review of a Permit Application Package

Under this Article, an operator on Federal lands covered by this agreement would be required by DMLR and the Department to submit a permit application package in an appropriate number of copies to DMLR. DMLR would furnish OSM a copy if OSM so requests. The term "permit application package," used in the cooperative agreement beginning in this Article, is a new term adopted by OSM in revising the Federal lands programs (48 FR 6912, February 16, 1983).

OSM adopted the term because there are requirements for mining on Federal lands that are in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency under Federal laws other than the Act. The package concept allows for any additional information to be submitted along with the application required by the State program.

The permit application package is to be in the form required by DMLR and contain any supplemental information which may be required by the Federal land management agency. At a minimum, the permit application package must include the information necessary for DMLR to make a determination of compliance with the State program and with any conditions of special requirements imposed by the Federal land management agency.

Paragraphs 1 through 5 of Article VI.B would describe the procedures for the review and analysis of permit application packages on Federal lands covered by this agreement. The proposed cooperative agreement identifies DMLR as reponsible for the analysis, review, and approval or disapproval of the permit application package on Federal lands containing non-Federal coal in Virginia, and as being the primary point of contact for operators on behalf of both the State and the Department. Upon receipt of a permit application package that involves surface coal mining and reclamation operations on Federal lands in Virginia covered by this agreement, DMLR would transmit a copy of the complete permit application package to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c)(4). DMLR would be responsible for obtaining, in a timely manner, the views of any other Federal agencies with jurisdiction or responsibility over the land covered by the permit application in Virginia.

OSM would provide technical assistance when requested if available resources permit. OSM would also be responsible for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to the permit application package and for ensuring that any information OSM receives from an applicant is promptly sent to DMLR. OSM would have access to DMLR files for mines on Federal lands. The Secretary would reserve the right to act independently of DMLR in order to carry out responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package would have to be sent to the State.

DMLR would prepare the required technical analysis and written findings on the permit application package. A draft of these documents would be sent to the Federal land management agency, if requested. Any permit issued by DMLR would include any terms or conditions imposed by the Federal land management agency. DMLR would send a notice to the applicant, to the Federal land management agency, and to OSM of the decision with a statement of

findings and conclusions in support of the decision.

Article VII: Inspections

This Article would specify that DMLR must conduct inspections on Federal lands covered by this agreement and prepare and file inspection reports in accordance with its approved State program.

Administrative provisions of this Article include designation of DMLR as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection. However, this Article would preserve the right of the Department to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to DMLR for the purposes of evaluating the manner in which the cooperative agreement is being carried out and insuring that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this Article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 842.

This Article would also provide that personnel of the State and the Department would be mutually available to serve as witnesses in enforced actions taken by either party.

Article VIII: Enforcement

Proposed Article VII would set forth the enforcement obligations and authorities of OSM and DMLR. The DMLR would have primary enforcement authority on Federal lands covered by this agreement in accordance with the requirements of the cooperative agreement and the approved State program. DMLR would also promptly notify the Federal land management agency of all violations of applicable laws, regulations, orders, and approved permits subject to this agreement and of all actions taken with respect to such violations.

The Secretary's obligation to enforce violations of Federal law other than the Act would be preserved as would OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the substantive standards contained in the approved State program, but would use the Federal procedures and penalty system.

Article IX: Bonds

Under this Article, DMLR would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States. DMLR would be required to obtain the consent of the Federal land management agency prior to releasing an operator's performance bond. The performance bond would be subject to forfeiture in accordance with the requirements of the State program. Bonding requirements appear at 30 CFR 740.15 and 43 CFR Subpart 3474.

Article X: Termination of Cooperative Agreement

Article X would provide for the termination of the cooperative agreement in accordance with 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

Article XI would provide for reinstatement of the cooperative agreement in accordance with 30 CFR 745.16.

Article XII: Amendment of Cooperative Agreement

Article XII would provide that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

This Article would recognize that the Secretary or the State may, from time to time, promulgate new or revised permitting or performance standards, or administrative and enforcement procedures. Such changes would be made in accordance with 30 CFR Part 732 for changes to the State program and section 501 of the Act for changes to the Federal lands program.

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement.

Article XV would recognize that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV would state that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties.

IV. Administrative Matters

1. *E.O. 12291 and Regulatory Flexibility Act.* The Department has determined that this is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the Commonwealth of Virginia will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Department certifies that this cooperative agreement will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It was concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

2. *Recordkeeping and Reporting Requirements.* There are recordkeeping and reporting requirements in the proposed cooperative agreement which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance number
Article IV.F (required by 30 CFR Part 735)	1029-0013
Article V (required by 30 CFR Part 740)	1029-0025
Article VI.A (required by 30 CFR Part 640)	1029-0051
Article IX.A (required by 30 CFR Part 740)	1029-0026

3. *National Environmental Policy Act.* Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(c)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

List of Subjects in 30 CFR Part 946

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

PART 946—[AMENDED]

For the reasons set forth herein, it is proposed to amend 30 CFR Part 946.

Dated: June 13, 1983.

J. R. Harris,

Director, Office of Surface Mining.

1. Section 946.30 is added to read as follows:

§ 946.30 State-Federal Cooperative Agreement.

Cooperative Agreement

This is a Cooperative Agreement (Agreement) between the Commonwealth of Virginia (State) acting by and through the Governor, and the United States Department of the Interior (Department), acting by and through the Secretary of the Interior (Secretary).

Article I: Introduction, Purpose, and Responsible Administrative Agency

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement for the regulation and control of surface coal mining and reclamation operations on Federal lands within that State. This Agreement provides for such regulation within Virginia consistent with the State and Federal Acts, the Virginia State Program, and the Federal Lands Program (section 523(a) of the Federal Act and 30 CFR Parts 740–746).

B. *Purpose:* The purpose of the Agreement is to (1) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations on Federal lands containing non-Federal coal; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the Virginia State Program (State Program) on all non-Indian lands except those containing leased Federal coal in Virginia.

C. *Responsible Administrative Agencies:* The Division of Mined Land Reclamation of the Department of Conservation and Economic Development (DMLR) is responsible for administering the Agreement on behalf of the Governor. The Office of Surface Mining Reclamation and Enforcement (OSM) is responsible for administering this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in Virginia covered by this Agreement are predominantly administered by the United States Department of Agriculture, Forest Service, and include all or parts of the Jefferson National Forest and the George Washington National Forest. It is understood by all parties that the Forest Service or the applicable Federal agency will continue to govern mining operations on lands under its jurisdiction pursuant to its laws, regulations, agreements and restrictions. These requirements are in addition to the requirements discussed in this Agreement.

Article II: Effective Date

The Agreement shall take effect 30 days after publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as approved in Article X.

Article III: Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700, 701 and 740 shall be given the meanings set forth in said definitions.

Article IV: Applicability

A. *Applicability to Federal Lands:* In accordance with the Federal Lands Program in 30 CFR Part 740, this Agreement makes the laws, rule, terms, and conditions of the State Program (as conditionally approved effective December 15, 1981, 30 CFR 946, or as hereinafter amended in accordance with 30 CFR 732.17) applicable to all non-Indian Federal lands within Virginia except those containing leased Federal coal.

B. *Filing of Appeals:* Orders and decisions issued by DMLR in accordance with the State Program that are appealable shall be appealed to the Commonwealth of Virginia pursuant to State regulation Part V787. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article V: Requirements for Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency:* DMLR has and shall continue to have authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the DMLR and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR Part 735. If sufficient funds have not been appropriated to OSM, OSM and DMLR shall promptly meet to decide on measures that will insure that mining operations are regulated in accordance with the State Program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with Article X.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget Circular A–102, Attachment E.

C. *Reports and Records:* DMLR shall make annual reports to OSM pursuant to 30 CFR 745.12(d), containing information respecting its implementation and administration of the terms of this Agreement. DMLR and OSM shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OSM shall provide DMLR with a copy of any final evaluation report concerning State admninistration and enforcement of this Agreement.

D. *Personnel:* DMLR shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

E. *Equipment and Laboratories:* DMLR shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

F. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with State regulation V771.25. All permit and civil penalty fees collected from operations on Federal lands covered by this agreement shall be retained by the State and deposited with the State Treasurer. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations, and OMB Circular No. A–102, Attachment E.

Article VI: Review of a Permit Application Package

A. *Contents of Permit Application Package:* DMLR and the Secretary shall require an operator proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit a permit application package in an appropriate number of copies to DMLR. DMLR will furnish OSM a copy if OSM so requests. The permit application package shall be in the form required by DMLR and include any supplemental information required by the Federal land management agency. The permit application package shall include the information required by, or necessary for, DMLR to make a determination of compliance under 30 CFR 740.4(c)(2) with any conditions or special requirements imposed by the Federal land

management agency and with the requirements of the State Program.

B. *Review Procedures:* 1. DMLR shall assume primary responsibility for the analysis, review, and approval or disapproval of permit application packages required by 30 CFR 740.13 for surface coal mining on Federal lands in Virginia containing non-Federal coal. DMLR shall be the primary point of contact for operators regarding the permit application package and will be responsible for informing the applicant of all joint State-Federal or Federal determinations.

2. Upon receipt of a permit application package that involves surface coal mining and reclamation operations on lands administered by an agency of the Federal government, DMLR shall (1) transmit a copy of the complete permit application package to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c) (4) and (2) provide OSM with relevant information to allow OSM to determine whether or not a proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the Act (30 U.S.C. 1272(e)) and 30 CFR Parts 760–762 with respect to Federal areas designated by Congress as unsuitable for mining. DMLR shall be responsible for obtaining, in a timely manner, the views and determinations of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a permit application package in Virginia.

3. OSM will provide technical assistance when requested if available resources allow and will process requests for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to the permit application package. OSM will be responsibile for ensuring that any information OSM receives from an applicant is promptly sent to DMLR. OSM shall have access to DMLR files concerning mines on Federal lands. The Secretary reserves the right to act independently of DMLR to carry out his responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package shall be sent to the State.

4. DMLR shall prepare the required technical analysis and written findings on the permit application package. If requested by the Federal land management agency, a draft of these documents shall be sent to it for review and comment.

5. The permit issued by DMLR shall incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post mining land use, and shall condition the initiation of surface coal mining operations on compliance with the requirements of the Federal land management agency. After DMLR issues the decision on the permit application package, it shall send a notice to the applicant, the Federal land management agency, and OSM with a statement of findings and conclusions in support of the action.

Article VII: Inspections

DMLR shall conduct inspections on Federal lands covered by this Agreement and prepare and file inspection reports in accordance with the approved State Program.

A. *Inspection Reports:* DMLR shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *DMLR Authority:* DMLR shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands. In order to facilitate a joint Federal-State inspection, OSM will ordinarily give DMLR notice of its intent to conduct an inspection. When OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact DMLR if circumstances and time allow, prior to the Federal inspection. OSM may conduct any inspections necessary to comply with 30 CFR Part 842. If an inspection is made without DMLR inspectors, OSM shall provide DMLR with a copy of the inspection report within 15 days after inspection. The Secretary reserves the right to conduct inspections without prior notice to DMLR to carry out his responsibilities under the Act.

D. *Witness Availability:* Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VIII: Enforcement

A. *DMLR Enforcement:* DMLR shall have primary enforcement authority on Federal lands covered by this Agreement in accordance with the State Program and this Agreement. During any joint inspection by OSM and DMLR, DMLR shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation.

B. *Notification:* DMLR shall promptly notify the Federal land management agency of all violations of applicable laws, regulations, orders, and approved permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce provisions of laws other than the Act. (2) During an inspection made solely by OSM or any joint inspection where DMLR and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the substantive standards included in the approved State Program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Article IX: Bonds

A. *Performance Bond:* DMLR shall require all operators on Federal lands covered by this Agreement to submit a performance bond to cover the operator's responsibilities under the Federal Act and the State Program, payable to both the United States and Virginia. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law, and release of the performance bond shall be conditioned upon compliance with all applicable requirements. DMLR may release the operator from any obligation under the performance bond with the concurrence of the Federal land management agency. If this Agreement is terminated, (1) the bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by DMLR to OSM if only Federal lands are covered by the bond.

B. *Forfeiture:* The operator's performance bond shall be subject to forfeiture in accordance with the procedures and requirements of the State Program.

Article X: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part, it may be reinstated under the provisions of 30 CFR 745.16.

Article XII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

A. *Time for Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised permitting or performance standards, or administrative and enforcement procedures. OSM and DMLR shall immediately inform each other of any final changes in thier respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program and section 501 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the

enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

DMLR and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. DMLR and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations.

Approved:
Governor of Virginia _____
Secretary of the Interior _____
Date _____

[FR Doc. 83-17249 Filed 6-24-83; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 93

[CGD 80-159]

Stability Requirements for Great Lakes Vessels

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: In the **Federal Register** of February 28, 1983 (48 FR 8312) the Coast Guard solicited comments on proposed amendments to the stability requirements for cargo ships operating on the Great Lakes of North America by adding a new subpart to 46 CFR Part 93. Due to the complexity of issues involved and amount of background research needed to respond to the issues raised the Coast Guard has determined that an extension is needed to provide a sufficient opportunity for public input.

DATES: The public comment period is extended to August 31, 1983.

ADDRESSES: Comments and requests for information should be mailed to: Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C., (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Thomas M. Curelli, U.S. Coast Guard Headquarters, (202) 426-2188.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT Thomas M. Curelli, Office of Merchant Marine Safety, and LCDR W. Short, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 93

Cargo vessels, Marine safety, Great Lakes.

Dated: June 22, 1983

B. L. Stabile,

Vice Admiral, U.S. Coast Guard, Vice Commandant.

[FR Doc. 83-17272 Filed 6-24-83; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 83-374; RM-4293; RM-4484]

TV Broadcast Stations in Reno, Nevada and Redding, California; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving a proposed VHF television channel assignment to Reno, Nevada. Donrey of Nevada, Inc. and Golden Empire Broadcasting Company each seek additional time to obtain engineering data and to formulate proper responses to proposals and counterproposals filed with respect to the Reno, Nevada request.

DATE: Reply comments must be filed on or before July 15, 1983.

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

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

Order Extending Time For Filing Reply Comments

In the Matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations. (Reno, Nevada and Redding, California) [1] MM Docket No. 83-374, RM-4293, RM-4484.

Adopted: June 13, 1983.

Released: June 20, 1983.

By the Chief, Policy and Rules Division.

1. On March 30, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 18844, published April 26, 1983, in the above-captioned proceeding proposing to assign VHF TV Channel 11 to Reno, Nevada, in response to a petition filed by Harry C. Powell, Jr. Comments have been filed and reply comments are due June 15, 1983.

2. We now have before us motions for extension of time filed by Counsel for Donrey of Nevada, Inc. ("Donrey"), and Golden Empire Broadcasting Company ("Golden Empire").

3. Donrey, licensee of Station KOLO-TV (Channel 8), Reno, Nevada, indicates that because it has operated a translator station on Channel 11 for many years, it has a vested interest in the Reno proposal. As a result, it filed comments and a counterproposal suggesting that petitioner be afforded an opportunity to specify a VHF channel other than Channel 11 for assignment to Reno. Moreover, Donrey states that a second counterproposal was filed by Sarkes Tarzian, Inc. ("STI"), licensee of television Station KTVN (Channel 2), Reno, Nevada, in which it proposes that Channel 11 be assigned to Redding, California in lieu of Reno, Nevada.

4. Golden Empire, licensee of Station KHSL-TV (Channel 12), states that although it is licensed to Chico, California, its studio is located in Redding, California. Therefore, it claims that the counterproposal submitted by STI would impact on its operation due to the close proximity of the two cities.

5. In light of the conflicting proposals and counterproposals, Donrey and Golden Empire request an extension of time from June 15, 1983 to and including July 15, 1983 to obtain necessary data to complete their engineering studies and to formulate a proper response.

6. Although neither Donrey nor Golden Empire indicate the consent of other parties to the requested extension, the certificate of service reflects they were mailed a copy.

[1] This community has been added to the caption.

7. We believe it would be in the public interest to obtain material to assist in resolving this proceeding. Accordingly, IT IS ORDERED, That the time for filing reply comments in MM Docket No. 83-374 (RM-4293) IS EXTENDED to and including July 15, 1983.

8. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-17163 Filed 6-24-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket No. 83-489; RM-4416]

TV Broadcast Stations in Katy, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commissions.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 51 to Katy, Texas, as its first television service, in accordance with a request by the Enigma Corporation.

DATES: Comments must be filed on or before July 18, 1983 and reply comments on or before August 2, 1983.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Mass Media Bureau (202) 632-5414

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rulemaking

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Katy, Texas) MM Docket No. 83-489 RM-4416; MM 33355.

Adopted: May 9, 1983.
Released: June 2, 1983.

By the Chief, Policy and Rules Divisions.

1. The Commission has before it a proposal by the Enigma Corporation ("Enigma") for the assignment of UHF television Channel 51 to Katy, Texas. Katy (population 5,600) [1] is located in Harris County (population 2,409,544), approximately 40 kilometers (25 miles) west of Houston. Enigma states that Katy is a steadily growing metroplex which has no television assignment. Enigma further states that its proposed television station would be a major contribution to the city. The proposed assignment meets all spacing requirements of the Commission's Rules. Enigma should state its intention to apply for operation on the channel, if it is assigned (Note paragraph 2 of the Appendix).

2. We conclude that the public interest would be served by our proposing the amendment of the TV Table of Assignments, § 73.606(b) of the Commission's Rules, for the following community:

	Channel No.	
	Present	Proposed
Katy, Texas		51+

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

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

4. Interested parties may file comments on or before July 18, 1983, and reply comments on or before August 2, 1983, and are advised to read the Appendix for the proper procedures.

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

6. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632-5414. However, members of the public shoud note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to the effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

than that, they will not be considered in connection with decision in this docket.

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

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

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

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

[FR Doc. 83-17180 Filed 6-24-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 74

[MM Docket No. 83-523; RM-2954; RM-2603; RM-2609; Rm-3057; FCC 83-244]

Amendment to the Commission's Rules in Regard to the Instructional Television Fixed Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes rule changes in two basic areas: (1) changes in the technical requirements that operators must meet including relaxation of transmission standards, authorization of "temporary fixed" stations, and authorization of program delivery to cable headends; and (2) nontechnical changes including modifications of the rules concerning four-channel assignment limitation, frequency coordination, unattended operation of relay stations, one-step licensing and the length of license terms. These proposed actions are needed to ease regulatory burdens imposed on Instructional Television Fixed Service licensees.

DATES: Comments due on or before August 8, 1983, and replies due on or before September 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Brian F. Fontes, Mass Media Bureau (202) 632-6302.

List of Subjects in 47 CFR Part 74

Instructional television, Fixed services.

Proposed Rulemaking

In the matter of Amendment of Part 74 of the Commission's Rules and Regulations In Regard to the Instructional Television Fixed Service. MM Docket No. 83-523, RM-2954, RM-2603, RM-2609, RM-3057, FCC 83-244.

Adopted: May 26, 1983.
Released: June 9, 1983.

By the Commission; Commissioner Fogarty not participating; Commissioner Sharpe absent.

Introduction

1. This *Notice of Proposed Rule Making* begins a reevaluation of the Commission's rules governing the licensing and operation of stations in the Instructional Television Fixed Service (ITFS). The ITFS service was established in 1963 for the basic purpose of transmitting educational material on a point-to-multipoint basis. The Commission believes that its current rules warrant review for two important reasons. First, the current rules may overly restrict the activities of ITFS operators and may place excessively burdensome requirements on them. Consequently, the service may be hampered unnecessarily in its efforts to achieve and maintain financial viability. Second, the existing rules may be causing inefficient spectrum utilization. The rules proposed in this *Notice* attempt to ameliorate these problems.

2. A number of petitions have been filed before the Commission requesting various rule changes, many of which comport with the thrust of our proposals. Therefore, these petitions are subsumed in the instant *Notice* and are discussed below.[1]

3. In this *Notice*, the Commission is proposing rule changes in two basic areas: 1) changes in the technical requirements that operators must meet including relaxation of transmission standards, authorization of "temporary fixed" stations, and authorization of program delivery to cable headends; and 2) non-technical changes including modification of the rules concerning four-channel assignment limitations, frequency coordination, one-step licensing and the length of license terms.[2]

Background

4. As a supplement to the educational television broadcast service, ITFS was authorized in 1963 in the 2500-2690 MHz band. Its underlying purpose was to provide frequencies for the transmission of instructional and cultural material to multiple receiving stations. *Report and Order* in Docket No. 14744, *Educational Television*, 39 F.C.C. 846 (1963). While instructional programming was to a limited extent being transmitted on educational television stations in the VHF and UHF bands, the Commission decided that the educational needs for spectrum were not being met principally because of the high cost of transmitting on VHF and UHF bands. Use of these bands also was limited because single channel availability made it impossible to offer more than one program at a time. The ITFS concept was developed as a multi-channel system capable of transmitting different programs simultaneously, thus allowing diversity along with flexibility.

5. For the first three years after the initial authorization of ITFS, the 2500-

---

[1] Petitions subsumed in the instant *Notice* include: Center for Excellence, Inc. (RM-2954) petitions for amendments to Part 74, Subpart I of the Commission's Rules to permit the operation of "movable fixed" or "temporary fixed" stations; Kessler and Wilhelm (RM-2609) petitions to amend the Rules applicable to ITFS, the delivery of instructional and cultural material to Community Antenna Television (CATV) systems for subsequent distribution to schools located within the cable franchise area; Kessler and Wilhelm (RM-2603) petitions to amend ITFS Transmission Standards to permit implementation of more economical ITFS systems, and to allow ITFS licensees the choice of technical standards appropriate to their instructional goals; Eastern New Mexico University (RM-3057) petitions to amend ITFS frequency assignments to permit point-to-point FM transmission across sparsely populated areas. In a separate docket (General Docket No. 83-322) the Commission addresses an ITFS related petition filed by the Board of Trustees, the California State University and Colleges for San Diego State University (RM-3292) to amend the licensed operator requirements for ITFS stations.

[2] The Commission also is considering today a *Report and Order* in Gen. Docket No. 80-112 (1980) in which we reallocate eight ITFS channels within the 2500-2690 MHz band to the multipoint distribution service (MDS). The proposals made in the instant notice are still pertinent since this *Notice* pertains strictly to the Instructional Television Fixed Service. In a related proceeding, *Notice of Inquiry and Proposed Rule Making*, in docket proceeding 80-113 (1980), we are proposing new MDS technical standards and inquiring as to the possible application of similar rules to ITFS if the 2500-2690 MHz band is to be shared.

2690 MHz band was to be shared with the private operational fixed service (OFS).[3] During its first three years, the Commission permitted only educational interests, with minor exceptions, to apply for licenses in the 2500–2690 frequency range, protecting educational use of the channels from competition with other possible spectrum users.[4] An evaluation of the amount of use of these channels and of the ultimate needs of the ITFS was to be considered three years later in order to decide how to encourage the fullest development of the band. However, in 1966, the review was delayed "because the Commission was aware of the problems encountered by educational interests in preparing funding and implementing the new 'tool' as well as developing the operational expertise." *Report and Order* in Docket No. 16453, F.C.C. 66–608, 31 FR 10742 (1966).

6. In addition, it was acknowledged that no suitable equipment was available in 1963 to transmit in the 2500–2690 frequency range. Thus, while potential manufacturers had stated that such equipment could be developed and indicated they would pursue such development, ITFS actually began its existence with a delay. For these reasons, it was not until 1971 that we finally allocated 28 of the 31 channels in the 2500–2690 MHz band for exclusive ITFS use, envisioning a spectrum resource in which educational services could expand as the nation's needs grew. *Second Report and Order* in Docket No. 14744, 30 F.C.C. 2d 197 (1971).

7. Throughout the development of the service, the Commission has encouraged the growth and expansion of ITFS. For example, in 1965 we realized that current and potential ITFS users were requesting information regarding the service that the Commission did not have available, and that coordination by region in making efficient use of available frequencies might be helpful to the development of ITFS. Thus, the Committee for the Full Development of the Instructional Television Fixed Service was established by the FCC. That committee, which was composed mainly of educators and FCC officials, assisted in the development of ITFS during the initial stages of its growth. This assistance was given primarily through coordination and planning for the efficient use of ITFS frequencies in local areas and by supplying information to help systems operate efficiently.

8. The Commission believes that an important way to aid in the development of a service is to remove unnecessary barriers to its growth and development. Petitioners have stated that various technical and non-technical requirements have limiting effects. Therefore, we believe that the proposed rule modifications will aid in the development of ITFS both by offering new revenue sources and by removing unnecessary and burdensome requirements. In addition, we think these proposals will intensify the use of the spectrum allocated to the ITFS that, after today's action in General Docket No. 80–112, will continue to be allocated to ITFS. While the proposals set forth in this *Notice* likely would enhance the usage of ITFS channels, they do not affect our decision to reallocate some ITFS channels to MDS since that action is based on allowing commercial operation in this band.

Basis for the Proposals

9. As discussed above, until 1980 ITFS experienced comparatively slow growth with light and uneven usage. Because the nature of educational and instructional offerings is so specialized, it produces only limited revenues. Thus, there have always been difficulties in creating a viable service given the high costs of construction and operation. The Plainview Old Bethpage Schools, Long Island, was the first licensee on the air, beginning operation March 1964. By April 1968, about 50 systems with almost 100 channels were on the air and more than 55 construction permits for over 200 channels were outstanding. In 1971, there were 127 systems licensed with over 370 channels on the air. At that time, construction permits were outstanding for 45 systems totalling 135 channels. By 1977, over 175 licensees serving 7.5 million students ranging from pre-school through secondary, college, and post-graduate.[5]

10. Recently, interest in the ITFS service appears to have grown as evidenced by an increased number of applications. Between 1975 and 1980, we received approximately five applications per year. However, in 1981 approximately 35 applications were received. In 1982 this number increased to approximately 250 applications. Over 100 applications from the Public Broadcasting System (PBS) currently await processing. In addition, South Carolina educational institutions recently have filed over 40 applications.

11. The recent increase in ITFS applications is probably the result of two factors. First, federal funding for ITFS facilities was projected to be increased. Second, the issuance of our *Notice of Proposed Rule Making* in General Docket No. 80–112 to reallocate some ITFS channels may have stimulated interest in applying for these channels while they were still available.

12. Even though there has been a recent increase in the number of ITFS applications, some of those interested in establishing ITFS systems have found it difficult to construct them because of the actual reduction in financial support. Few parties have actually attempted to measure the extent to which ITFS channels are used in the top fifty markets. Because separate studies were conducted over different periods of time and because different sources of data were employed, these reports vary in the measurement of ITFS channel use. A complete discussion of various studies regarding ITFS usage is contained in the *Report and Order* in General Docket No. 80–112. Briefly, a Commission staff study showed that there were 124 licensed ITFS operators using 808 channels. More than half of the licensed channels were located within 25 miles of a major metropolitan area.[6] Although in several large metropolitan areas the ITFS channels are heavily licensed, there are several large metropolitan areas in which there are no licensed ITFS stations. Additionally, there is little ITFS spectrum in use outside the large metropolitan areas.[7]

13. The Commission is concerned that some of its regulations may be exacerbating unnecessarily the financial situation facing existing and potentials

[3] Section 74.902(a) of the Rules divides the 31 six-megahertz channels in the band into eight groups. After today's action in General Docket No. 80–112, five of these groups, each containing four channels, are allocated to ITFS. Two of these groups are allocated to MDS. The group highest in the spectrum has three channels and is allocated to OFS.

[4] Current rules provide that an ITFS license will be granted only to an institutional or governmental organization engaged in the formal education of enrolled students or to a nonprofit organization formed for the purpose of providing instructional television material to such institutional or governmental organizations, and which is otherwise qualified under the statutory provisions of the Communications Act of 1934, as amended. In addition, only a nonprofit organization would be eligible for a license for a noncommercial educational television broadcast station is considered to be eligible for a license for an instructional television fixed station. (Section 74.932 of the Commission's Rules.)

[5] RM–2954, Petition for Rule Making submitted by Center for Excellence, Inc., Williamsburg, Virginia, August 25, 1977, p. 2.

[6] *See Report and Order* in General Docket No. 80–112, paras. 16–23, adopted May 26, 1983.

[7] Demand for ITFS licenses has been low enough that sufficient spectrum has become an issue in only a few areas. For example, in Los Angeles and Cleveland there was initial demand for more channels than could be authorized. The Commission did not make decisions on the authorizations. Instead, it allowed the local educational institutions to devise a plan for the most efficient allocation of channels.

ITFS licensees. Our concern is heightened by the current governmental funding situation faced by many educational institutions. Significant cutbacks in federal support have been adopted by Congress [8] and it is likely that local government entities are adjusting their budgets in response to cuts in federal transfer payments.

14. In light of this limited and perhaps diminishing base of financial support, we believe that it is a particularly appropriate time to revisit a number of technical and nontechnical areas where regulatory changes may reduce burdens on ITFS licensees and enable them to enhance the quality and quantity of the service. The commission in a separate proceeding is today permitting ITFS licensees to lease their excess capacity. That action fosters new sources of financial support for ITFS licensees.[9] The proposals in this *Notice* would augment that action.

Relaxation of Technical Standards

15. We propose in this *Notice* the relaxation of a number of technical standards that currently are imposed upon ITFS operations. Technical complications that appear to be the result of these standards constitute a prevalent complaint among ITFS users. Additionally, many qualified ITFS users may not consider the use of ITFS systems due to the high costs of equipment. Thus, it appears that some of our technical requirements and their associated costs may have retarded the growth and development of the service and, therefore, warrant consideration for elimination or modification.

16. *Transmission Standards:* Although ITFS transmitting equipment operates with very low power and has a useful service range of only about 20 miles, the existing rules require that ITFS stations meet transmission standards closely paralleling those of television broadcast stations as set forth in § 74.682 of the Rules. Thus, ITFS licenses are procluded from using a wide variety of lower cost television origination and recording equipment satisfactory for instructional television purposes, but not in conformance with certain broadcast transmission standards. At the time these rules were instituted, it was believed that they were necessary for two reasons: (1) To enable conventional television receivers to be used in the classroom, thus making ITFS more economical and allowing for free exchange of educational and instructional material between conventional television broadcast systems and ITFS systems; and (2) to preclude the possibility that inferior equipment might be used. *Report and Order* in Docket 14744, *Educational Television*, 39 F.C.C. 857 (1963).

17. However, many, if not a majority, of school districts and other educational and nonprofit institutions are apparently financially incapable of providing IFTS because of the present cost of equipment and maintenance. While petitions for rule making and waiver requests have been filed by ITFS users requesting relief from the restrictive standards, the rules regarding ITFS transmission standards have not been changed since they went into effect in 1963. Yet, since 1963, vast technical changes and improvements have occured in television origination and recording equipment. Equipment now available to ITFS operators is of better quality and lower cost than that previously available.

18. In September 1975, the firm of Kessler and Wilhelm, Consulting Telecommunications Engineers (Kessler), submitted a petition (RM-2603) requesting that § 74.938(a) of the rules be changed to permit ITFS station to use origination and recording equipment that does not meet television broadcast standards. The petition also asked that ITFS operators be allowed to use color encoding schemes not compatible with NTSC, the U.S. standards, so as to provide for specialized needs such as the transmission of medical programs. The petition asserts that the imposition of such broadcast standards on ITFS systems pecludes them from making use of a wide variety of technical equipment. It appears that the application of broadcast standards may be unnecessary and inappropriate because the ITFS licensee is, in may cases, both the originator and end-user of the transmitted program material. Thus, the ITFS licensee should be in the best position to determine the transmission standards required by its programming.

19. Moreover, although ITFS was established as a low-cost alternative to the use of VHF and UHF television stations for transmitting instructional programming to specified locations, it appears that the imposition of broadcast standards on ITFS systems significantly impairs the cost advantage that the service was intended to provide. Kessler states that the differential capital and operating costs between broadcast and non-broadcast equipment are significant and thus may account in part for the lack of use of ITFS to the levels that had been anticipated.

20. Significantly, waivers issued to the Anaheim City School District to use the SECAM/60 color system for ITFS stations KUZ-56 and KVP-26 and various waivers to Florida systems to operate non-broadcast standard equipment have proved to be cost-efficient and non-interfering with the transmissions of other licensees. In light of the above factors, we propose to relax the Rules by changing § 74.938(a) and by deleting § 74.938 (c), (d) and (e). The quality of the ITFS signal would thus be that desired by the licensee and not that of the Commission.[10]

21. In conjunction with the use relaxation discussed above, the licensee could reduce or increase the level of quality to meet the demands or needs of those served by ITFS. It appears that if a station is to feed outside the closed circuit, compatible formats would be determined through private contract negotiations. Thus, even when the service is being used outside the closed system, it would appear to be more appropriate for the ITFS licensee and the end-user to decide on the quality levels rather than the Commission.

22. We believe that this change might permit more economical ITFS systems in terms of both initial acquisition and future operation, with station costs substantially reduced. This could result in a substantial increase in demand for the channels that remain allocated to ITFS. In addition, the rule modification would allow ITFS licensees the choice of technical standards and corresponding equipment appropriate to their individual instructional goals.

23. The Commission's basic concerns relating to interference protection are met under these proposals because we would continue to require that the signal from the transmitter comply with § 74.936, amplitude modulation (A5) for the transmission of the visual signal and frequency modulation (F3) for the transmission of the aural signal. We invite comments as to the desirability of allowing any type of modulation signal within each six MHz channel. In this context, we also invite associated comments regarding the effects of such a change in the coordination of non-compatible signals on interference considerations and the impact it would have on manufacturers and type-accepted equipment for this service.

24. *"Temporary Fixed" Stations:* Because ITFS is fixed in both transmit and receive locations, broadcast of

[8] The Public Broadcasting Amendments Act of 1981 (Pubic Law 97-35) Section 7(a).

[9] *See Report and Order and Further Notice of Proposed Rule Making* in Docket No. 80-112, adopted May 26, 1983.

[10] The Commission has issued a *Notice of Inquiry* in General Docket No. 83-114 regarding a re-examination of technical regulations. 48 FR 14399 (published April 4, 1983).

instructional material developed outside the classroom/studio is possible only on a delayed basis using videotape or film. In order to increase the flexibility and scope of ITFS use, we are proposing that ITFS systems be authorized to use temporary fixed transmitters that could be transported to any number of locations for the purpose of transmitting picture and sound information back into the ITFS system.

25. The value of temporary fixed transmitter use lies in the ability of transmitters to be moved quickly from one predetermined location to another. This enables the ITFS operator to make available to many participants the unique advantages of interactive instruction. The concept of the "temporary fixed" station is not provided for in the ITFS rules. The Table of Frequency allocations (Section 2.106 of the Rules) contemplates assignment of frequencies in the 2500–2690 band by the Commission to fixed stations only. However, the Commission has received and granted four waivers to allow operation of such transmitters.[11]

26. In August, 1977, the Center for Excellence, Inc. proposed amendments to §§ 74.901, and 74.902 of the Rules to permit the operation of "movable fixed" or "temporary fixed" stations (RM-2954). The petition describes such a station as a transmitter installed in a specially equipped vehicle that would transmit from a desired school at any designated location. The waivers granted allow these licensees to transmit programming such as "live" governmental meetings to lawyers who deal with such bodies on a regular basis; doctors rounds from hospitals for instruction of nurses; and teleconferences.

27. Although the waiver requests represent recent desires for portable or temporary transmission sites, the proposed use of ITFS in this manner did not originate with George Mason University or the Center for Excellence, Inc. In the original proceeding which established the ITFS, commenters suggested that some provision be made so that transmitters licensed in the ITFS could be moved from building to building on-campus and to locations off-campus that would be the source of instructional material. *Report and Order* in Docket No. 14744, *Educational Television*, 39 F.C.C. 852 (1963). While the Commission rejected the concept at that time, it appears to be in the public interest of revisit that decision and to consider authorizing the use of "temporary fixed" stations due to the increased interest in interactive communication systems and live coverage of events.

28. We are aware of the function and value that temporary fixed stations may provide in a licensee's operations. Consequently, we are proposing to allow the filing of applications for these types of stations on a secondary basis, as spectrum space allows. However, if the need for point-to-multipoint transmission grows in a given area, secondary stations would have to give way to the primary stations. Under such a plan, secondary stations might be required to change channels, bands or even discontinue operation altogether in order to protect primary authorizations. Channels for point-to-point, fixed and temporary fixed use traditionally have been available for ITFS under Part 94, Private Operational-Fixed Microwave Service.

29. We are proposing that any of the licensed ITFS channels may be used on a temporary fixed basis, but only in the geographic area of the ITFS license. Operations of this type must be coordinated with other licensees in this same area. If operation of a temporary fixed station is proposed within 35 miles of the Canadian border, Canadian use of some or all of the channels may preclude operation in some areas. Coordination along the Mexican border is not required at this time, but if an agreement between the United States and Mexico is signed, appropriate requirements may need to be added at that time. Under our proposals, the use of one or more additional transmitters for temporary fixed stations will come under the authorization granted by the ITFS license. We also propose to add requirements to the identification section, 74.982, to specify how such a station would be identified.

30. It appears that permitting the operation of temporary fixed stations would add another dimension to ITFS and allow for programming not easily originated from the studio. The more intensive utilization of the ITFS would increase spectrum efficiency and enhance the services provided by ITFS operators. We invite comments on all aspects of this proposal.

31. *Delivery of ITFS Programming to Cable Headends:* In this rulemaking, we are seeking comment on whether to permit ITFS operators to deliver programming to cable systems for subsequent distribution to schools and other institutions within the cable franchise areas. If ITFS signals could be fed to cable headends, individual ITFS receiving systems would not have to be installed at each school, thereby removing the necessity of installing receiving antenna supporting towers near the fringe of each system. ITFS could thus be brought directly to schools located in areas without a line-of-sight transmission path from an ITFS station.[12] It appears that such a relaxation of the rules would further the growth and development of ITFS both from an economic and an engineering perspective.

32. Economically, the proposal could reduce the costs of operating an ITFS system so that ITFS would become more affordable for potential users located within the cable areas. The extent of such savings was described in a petition for rulemaking filed in October 1975 by Kessler and Wilhelm (RM-2609). They stated that the average receiving site installation costs were approximately $3,500, with higher costs in situations where terrain or other factors require taller towers, higher power and other expensive equipment. Thus, a system serving 72 receiving sites would cost in excess of $250,000 for the receive sites alone. Since the number of receiving antennas and down converters would be reduced if a cable system were used to distribute the ITFS programs, total capital and maintenance costs would be substantially less than the cost of a conventional system. If the ITFS transmitter were located relatively close to the CATV tower, further advantages would accrue since lower transmitting power and lower tower heights would be possible.

33. Allowing ITFS signals to be sent to cable headends would also make it feasible to link adjacent communities through cable so that the expenses of ITFS could be shared among school districts. The usage of the spectrum would be expanded as more licensees could afford to operate.

34. In terms of engineering improvements, allowing ITFS signals to be delivered by cable would improve the signal quality of ITFS reception to end-users. The quality would be more uniform and less susceptible to fading due to varying meteorological conditions. Transmissions of this type also would extend the effective range of an ITFS system. Since CATV headends have high reception towers, ITFS stations may be able to transmit their signals to headends farther away than

[11] Waivers were granted for authorization on a secondary basis to the Center for Excellence, Inc., Williamsburg, Virginia; Educational TV Association of Metropolitan Cleveland, Cleveland, Ohio; and George Mason University, Arlington, Virginia (two waivers).

[12] ITFS uses a frequency band that requires a line-of-sight path. Hills, buildings, trees and other obstructions can totally block the transmitted signal from an intended receiver.

through direct transmission to the schools.

35. By permitting the technologies of ITFS and CATV to be combined into a hybrid system, the Commission would be acting consistently with its goal of establishing ITFS as a low-cost alternative to the use of HHF and VHF television stations for the transmission of instructional programming to schools. Such a rule change would also be consistent with past Commission action in this area. We have granted a waiver to permit operating ITFS stations to specify CATV headends as receive sites in circumstances where the waiver permitted expansion of the ITFS service to schools unable, for a variety of reasons, to receive the signal off-the-air.[13] Because the cost of installing such equipment in each school building is beyond the realm of possibility for many school systems, this proposal offers an alternative to the high cost of conventional ITFS systems. In addition, it offers expanded coverage and better reliability at less cost.

36. Similarly, a licensee may have his origination equipment and studio distant from a desirable location from which to transmit his ITFS signal. He may want or need to use a Studio-Transmitter Link (STL) to get his programming to his primary ITFS transmitter, perhaps on a distant hill or tower. We have granted waivers before on a secondary basis to provide for this. As both this STL and Studio-Headend Link (SHL) are point-to-point uses of this service, we seek comment on whether the ITFS channels are appropriate frequencies for these uses, and if so, whether they should be allowed on a primary or secondary basis. As discussed above for temporary fixed stations, the primary use of these channels has been for point-to-multipoint use, with other bands available for point-to-point use.

37. *Wideband ITFS Transmission:* In addition to the petitions discussed above, the Commission has received a petition from Eastern New Mexico University (RM–3057, February 1978) asking that the Commission amend its rules to permit wideband ITFS transmission using a frequency modulated video carrier to enable long range ITFS communications over sparsely populated areas. Using frequency modulation (FM) to carry a video signal requires approximately three times the amount of spectrum occupied by the video signal itself. Thus, 18 megahertz (3 channels) would be required under the Unviersity's proposal rather than the six megahertz (1 channel) currently used. In order to permit this broadband use, the petition proposes amendment of § 74.902, *Frequency Assisgnment,* to allow a combination of channel assignments in groups of three consecutive regular ITFS channels. The desire to use wide-band FM for long-haul, point-to-point links is due to the improved quality of signal at the receive end as compared to transmission of the video by amplitude modulation (AM).

38. Eastern New Mexico University proposes that the Commission establish an additional channeling scheme that would provide for a long-haul, point-to-point relay service. A scheme that would allow several channels to be used for transmitting only one signal and would decrease the number of channels available for ITFS. We believe that spectrum is available elsewhere for such transmissions and that other services such as the private operational fixed service provide for long-haul service needs. Authorizing wide-band transmission on ITFS channels also would require the creation of a different set of technical standards and a second category of accepted equipment for this band. The mixture of standards could increase technical problems within the band and make usage coordination more difficult. Given these factors, we are not proposing to allow wideband transmission in the ITFS band at this time. Nevertheless, we invite comments on whether further consideration should be given to the possible authorization of broadband transmissions for specialized needs in the ITFS spectrum.

Relaxation of Non-Technical Standards

39. In this *Notice,* we also are proposing a number of non-technical modifications of the Rules. We believe that these changes will lessen the burdens placed on licensees, increase the efficient use of the spectrum and lessen the Commission's intrusion into the operation of ITFS.

40. *Four-Channel Assignment Limitation:* Section 74.902(c) of the Rules precludes assignment of more than one channel group (four channels) to the same licensee for use within a single area of operation. In originally limiting the number of channels assigned to four, we made it clear to potential applicants that careful consideration would be given to requests for waiver of the limitation, especially in areas where there is little likelihood of saturating ITFS channel availabilities in the foreseeable future. *Report and Order* in Docket 16453, FCC 66–608, 31 FR 10742 (1966). Not only has this rule been waived routinely by the Commission in areas where a need has been shown, it is also the subject of a rule making petition submitted in August 1977 by CenTex (RM–2954).

41. Given the fact that there are currently numerous vacancies in the spectrum that will remain available for ITFS, a limitation on the number of channels authorized to an ITFS licensee in any given area seems no longer appropriate.[14] Indeed, vacant channels might be brought on the air that otherwise would continue to remain unused. Of course, we will continue to grant licenses for less than four channels when an applicant so desires. We believe that relaxation of the four-channel limitation may lead to greater usage of the spectrum by current licensees thereby increasing the efficiency of its use. Comments are invited as to the extent to which present licensees might increase their channel holdings and what effect the relaxation might have on future applicants.

42. *Frequency Coordination:* In order to avoid frequency conflicts and to facilitiate new entry into already congested areas, we encourage that and indeed with respect to new applications will assume that, prior to filing their applications, ITFS applicants have coordinated the techical aspects of their proposals with existing channel users and other relevant licensees. In reality, this is not a change in our current processing procedures, but is merely a clarification of the manner in which §§ 74.902 and 74.903 will be implemented. These sections require full cooperation among licensees in order to limit potential interference.

43. Based on past experience with prior frequency coordination in the point-to-point microwave service, we believe that nearly all potential frequency conflicts can be resolved through such a prior coordination procedure. This procedure also will allow the users themselves to define allowable limits of interference. Having assumed that prior coordination has occurred, we will process an application on its technical merits alone.

44. In order to facilitate the needed engineering studies for new applications, Commission records on existing licensees or pending applications will be made available for examination. Even though, in the past the lack of congestion has made engineering studies in the ITFS area fairly simple, the possible growth in the ITFS service that might result from the

[13] The School Board of Broward County, Florida, was granted such an authorization on October 29, 1979 by letter from Broadcast Facilities Divison.

[14] *See Report and Order and Further Notice of Proposed Rulemaking* in General Docket No. 80–112, adopted May 26, 1983.

proposed rule changes could increase congestion and make such studies more complex. Questions relating to simultaneous filings and interference levels are already beginning to appear with the current increase in applications. We request comment on how the Commission should resolve any disputes that might arise if two or more mutually exclusive applicants wish to use a specific channel at the same time. For example, should the Commission's licensing priority be based on a first come-first served basis, a lottery selection technique, or should some other method be used? If commenters feel that a lottery should be used, we request what the appropriate criteria are for conducting such a lottery. As far as levels of interference are concerned, should the Commission establish protected contours, interference ratios, or allow the users to resolve any problems that may arise in the field by mutual agreements?

45. Although we do not anticipate substantial interference problems, we invite comments as to appropriate mechanisms that might result in private resolution of interference problems. We also invite comments as to what role the Commission should play, if any, in providing a framework or forum for dispute resolution.

46. *One-Stage Licensing:* Section 319(d) of the Communications Act of 1934, which required the issuance of construction permits to establish a non-broadcast station, has been amended by the Communications Amendments Act of 1982 (Public Law No. 96-254) so that construction permits are not required "unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits * * *" H. Rep. No. 97-765, 97th Cong., 2d Sess. at 10-17 (1982).

47. Currently the Commission conducts such one-step licensing for remote pickups, aural studio-to-transmitter links, intercity relays, and TV auxiliaries. In these cases, the Commission issues a combined construction permit-license. While we actually issue only a license, there is an implied construction permit for the period for one year in that grant. If construction does not commence within that one-year period, technically the license is invalid and will be deleted from the station's records if there is no request for extension of time. In the case of ITFS licensing, we do not believe that the public interest would be served by requiring the issuance of separate construction permits to applicants before issuing licenses. Such a two-stage process creates an unnecessary burden on licensees and on the Commission. Therefore, we propose to institute a one-step licensing procedure.

48. *Licensing Term:* The Communications Amendments Act of 1982 lengthened the permissible license term from the present five years to a term of ten years. Since ITFS licenses are not challengeable at renewal time as are conventional broadcast licenses, we believe it would be desirable to extend ITFS license terms to 10 years. We invite comments on this change.

49. In conjunction with the proposed lengthening of the license term, we also are proposing to amend the rules by imposing a requirement that, if a licensee has not operated its ITFS station for a given period of time, the license will be forfeited. We invite comments on whether one year of non-operation is an appropriate time frame before requiring return of the license to the Commission. Stations that are licensed but are not operating place burdens on the Commission, other licensees as well as ITFS applicants. Coordination and enforcement activities depend on current and accurate records. In addition, we invite comment on the possibility of including a requirement that the station must receive "substantial use" or the license must be forfeited.

Conclusion

50. In this *Notice* we are proposing to liberalize ITFS rules in order to increase the viability of the ITFS service, to allow for reasonable technical experimentation by ITFS users and to more efficiently utilize spectrum that may otherwise remain idle. We believe that granting technical and operational flexibility to licensees is a highly desirable goal. We invite the public to comment on all aspects of our proposal and to present alternatives if they so desire.

51. *Regulatory flexibility act initial analysis.*

I. *Reason for Action.*—After considerable study, the Commission is concerned that the spectrum allocated to the Instructional Television Fixed Service may be used less efficiently than possible, in great part because of the high costs of construction and operation, the limited revenues available to licensees and the difficulties licensees have in utilizing new transmission technologies. Modifications of the rules as proposed in the *Notice* would help attain more efficient use of the spectrum, allow ITFS users to adapt to changing technologies and generate revenues for further development of the service.

II. *The Objective.*—The Commission proposes to amend Part 74 of its Rules with respect to the technical, and non-technical requirements placed on the ITFS. The proposal would eliminate requirements which appear to be burdensome to the licensees and inhibiting to the growth and development of the service.

III. *Legal Basis.*—Legal action as proposed is in furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to explore new and improved uses of radio.

IV. *Description, Potential Impact and Number of Small Entities Affected.*—The proposal would modify Commission technical and non-technical requirements currently placed on ITFS. It appears that these regulations may have limited the growth and development of the ITFS service and may have had an adverse impact on efficient spectrum utilization. The proposal would be expected to have a beneficial impact on all ITFS licensees. It would modify, and in some cases eliminate, what seem to be burdensome requirements, and create a less restrictive environment in which ITFS could grow and develop. We see only positive impact in the rule modifications as proposed.

The substantial number of entities that would be affected include non-profit education institutions such as colleges, universities, public and private secondary and elementary schools. The impact on these entities would be positive since the rule changes would lessen restrictions placed on such institutions as ITFS licensees.

In summary the proposed action would be expected to improve the growth and development of ITFS and to increase the efficient use of the spectrum.

V. *Recording, record keeping and other compliance requirements.*—None.

VI. *Federal rules which overlap, duplicate or conflict with this rule.*—None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with stated objective.*—The Commission's alternative is to maintain the status quo and not modify the rules as proposed. This alternative would not accomplish the beneficial objective sought in this rule making.

52. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is

issued stating that substantial 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 1.1201 of the Commission's Rules.

53. Pursuant to procedures set out in Section 1.415 of the Commission's Rules, interested parties may file comments on or before August 8, 1983, and reply comments on or before September 7, 1983. 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.

54. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, and original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, Northwest).

55. For further information concerning this proceeding, contact Brian Fontes, Mass Media Bureau (202) 632-6302.

(Secs. 4, 303, 48 stat., as amended, 106, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,
Secretary.

Appendix

PART 74—[AMENDED]

It is proposed that Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 74.15(e) would be revised as follows:

§ 74.15 Station license period.

* * * * *

(e) Licenses for instructional television fixed stations will be issued for a period of 10 years beginning with the date of the grant.

* * * * *

2. Section 74.901 would be revised as follows to add the new definition *Temporary Fixed ITFS Station* and placing in the proper alphabetical sequence:

§ 74.901 Definitions.

* * * * *

Temporary fixed ITFS station. An ITFS station used for the transmission of material from temporary unspecified points to an ITFS station.

* * * * *

3. Section 74.902(c) would be revised and new paragraph (e) would be added as follows:

§ 74.902 Frequency assignments.

* * * * *

(c) A licensee is not limited to the number of channels that may be assigned for use in a single area of operation. An area of operation is defined as the area in which the use of channels by one licensee preclude their use by other licensees. Applicants shall not apply for more channels than they intend to construct within one year. Additional channels should be selected within a group, as listed in paragraph (a) of this Section, or if more than four channels are needed, within an additonal group.

* * * * *

(e) A temporary fixed ITFS station may use any available ITFS channel on a secondary basis. Operation of stations located within 35 miles of Canada shall be limited by Section 74.24 (h)(3) of this Subpart.

4. Section 74.931(d), would be revised, existing paragraph (f) would be redesignated as paragraph (g) a new paragraph (f) added.

§ 74.931 Purpose and permissible service.

* * * * *

(d) Stations may be licensed in this service as originating or relay stations to interconnnect instructional television fixed stations in adjacent areas, to deliver instructional and cultural material to, and obtain such material from, commercial and noncommercial educational television broadcast stations for use on the instructional television fixed system, and to deliver instructional and cultural material to, and obtain such material from, nearby terminals or connection points of closed circuit educational television systems employing wired distribution systems or radio facilities authorized under other parts of this chapter, or to deliver instructional and cultural material to any CATV system serving a receiving site or sites which would be eligible for direct reception of ITFS signals under the provisions of paragraphs (a) and (b) of this Section.

* * * * *

(f) On a secondary basis, an ITFS station may be operated as a temporary fixed station from temporary unspecified points to an ITFS station under the provisions of paragraph (a), (b), (d) or (e) of this Section.

5. Section 74.932(b) would be revised and new paragraph (d) would be added as follows:

§ 74.932 Eligibility and licensing requirements.

* * * * *

(b) No numerical limit is placed on the number of stations which may be licensed to a single licensee. A single license may be issued for more than one transmitter if they are to be located at a common site and operated by the same licensee. Applicants are expected to accomplish the proposed operation by the use of the smallest number of channels required to provide needed service.

* * * * *

(d) In case of permanent discontinuance of operation of a station licensed under this subpart, the licensee shall forward the station license to the issuing authority for cancellation. For purposes of this Section, a station which is not operated for a period of one year

is considered to have been permanently discontinued. If use of a channel(s) is discontinued, an application for modification shall be filed to delete such channel(s).

6. Section 74.937(b) would be revised as follows:

§ 74.937 Antennas.

* * * * *

(b) Directive transmitting antennas shall be used whenever feasible so as to minimize the hazard of harmful interference to other licensees. The radiation pattern shall be designed to minimize radiation in directions where no reception is intended. When an ITFS station is used for point-to-point service, an appropriate directional antenna must be used.

7. In § 74.938(a) would be revised and (c), (d) and (e) would be removed and reserved to read as follows:

§ 74.938 Transmission standards.

(a) The width of an ITFS channel is 6 MHz. ITFS transmitters will normally be type accepted for transmission of an NTSC signal. If other video transmission systems are used, either the manufacturer or the licensee must obtain transmitter type acceptance for that system by filing an application for type acceptance with information concerning the waveform of the signal and how the input and output signals are measured.

(b) * * *

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)

8. Section 74.982(f) would be added as follows:

§ 74.982 Station identification.

* * * * *

(f) Temporary fixed ITFS stations shall identify with the call sign of the primary station and a temporary fixed identifier.

[FR Doc. 83-16129 Filed 6-24-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket Nos. 70-27, Notice 26; 83-07, Notice 1]

Hydraulic Brake Systems; Air Brake Systems; Grant of Petition

AGENCY: National Higway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking and grant of petition for rulemaking.

SUMMARY: This notice grants a petition for rulemaking submitted by International Harvester (IH) to amend the agency's standards on braking in a way that would modify brake burnish test procedures. IH stated that the currently specified maximum permissible brake temperature during burnish were difficult, it not impossible, to maintain while testing heavy vehicle disc brakes. Those brakes are designed to operate safely at higher temperatures. IH recommended allowing further reduction in test speeds to control the high brake temperatures. The agency tentatively agrees with IH that an amendment is necessary. However, the agency declines to adopt the specific recommendation of IH to correct this problem. Rather, the agency proposes to establish a minimum test speed without regard to brake temperature at that speed. By this notice, the agency also is proposing several small changes to the standard to incorporate existing agency interpretations of test procedures.

DATES: Comments must be received before August 26, 1983. This proposal would become effective immediately upon publication of the final rule..

ADDRESSES: Comments should refer to the docket number of this notice and be submitted to the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. The docket is open on weekdays from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. James Clements, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-1714).

SUPPLEMENTARY INFORMATION: On August 16, 1982, IH petitioned the agency to amend Standard No. 121, *Air Brake Systems*, and Standard No. 105, *Hydraulic Brake Systems*, to modify the procedures for conducting the burnish or "breaking-in" of heavy vehicle brakes. The two standards require that truck brakes be burnished prior to conducting some of the performance tests on vehicle brake systems. IH provided data indicating that during the burnish of disc brakes, the temperature of the brakes frequently exceeds the maximum permitted in the standards. IH suggested an amendment of the standards to address this test problem.

The burnish procedure requires a series of 500 brake applications at specified speeds to ensure adequate contact between brake linings and drums or discs. During the burnish procedure the maximum temperature of the hottest brake on the vehcile is not permitted to exceed 500°F±50°F. The standards state that the first 175 brake applications (snubs) are made at 40–20 mph. Subsequent applications are conducted at speeds that increase in increments of 5 mph until 60 mph speeds are reached resulting in a snub from 60–20 mph. However, if the maximum allowed brake temperature is reached at a speed less than 60 mph, there are not any further speed increases. In fact, the test speed may be reduced to a minimum of 40 mph if such a reduction is required to maintain the temperature below the specified maximum.

The maximum brake temperature that is permitted for both drum and disc brakes by the standards was based on SAE Recommended Practice J880, "Brake System Rating Test Code—Commercial Vehicles," established in 1963. The temperature limitations specified in J880 were based on drum brake test data. The maximum temperature allowable may not be appropriate for disc brakes since they are designed to operate at higher temperatures that drum brakes are. The application of the current maximum to disc brakes has created a testing problem because it is difficult to aviod exceeding the maximum permitted brake temperature even at the lowest of the referenced burnish test speeds in the standard, i.e., 40 mph. IH has asked for a resolution of this problem.

IH petitioned the agency to solve the problem by altering the requirements in a fashion that would allow the test speed to be reduced in increments of 5 mph even below the current minimum speed of 40 mph in the standard if that were necessary to maintain the temperature at the acceptable maximum. The agency tentatively agrees that changes to the standards are necessary, in order to encourage use of disc brakes, since they may perform somewhat better than drum brakes can. However, the agency declines to adopt the approach suggested by IH.

The IH suggestion could result in several potential problems. First, the current speeds referenced in the standard are designed to simulate real-world driving experiences. Stops at speeds of 40 to 60 mph are common in normal driving. To permit burnish below those speeds would not properly reflect real driving situations. More important, however, to reduce speeds in this manner to accommodate the characteristics of disc brakes might result in the improper burnishing of drum brakes on those vehicles that are equipped with both types of systems.

Accordingly, the agency does not believe that the IH solution will resolve the problem while maintaining the integrity of the burnish procedure for all vehicle brake systems.

The agency proposes to address the problem raised by IH through amending the applicable sections of both standards in a way that will state that if a temperature of the hottest brake exceeds 550°F. at a snub condition of 40 to 20 mph, then the remaining tests will be run at that snub condition without reference to brake temperature. Under current test conditions, the test would have to be discontinued if the brake temperature exceeded 550° F. at 40 to 20 mph snub. This proposal should not create any problem with the compliance of existing drum brake systems that do not typically have problems with excessive temperature during testing and should resolve the test temperature problem found in the disc brake systems. Moreover, this would maintain the value of the burnish procedure, ensuring that drum brakes are burnished at speeds that approximate real-world driving while allowing disc brakes to be burnished at higher temperatures which should not adversely affect their operation.

The agency in this notice is also proposing several small revisions to the standard to incorporate interpretations that have been made previously by the agency. First, the agency is proposing to amend S6.1.1 of Standard No. 121 to clarify the procedure for loading tractors and trailers during burnish testing in accordance with the requirements of the Office of Enforcement's test procedure, TP 121-02. This is not an additional requirement beyond those currently specified in the standard. It is simply a clarification of the test procedures that have previously been rather vague as to loading conditions for this type of vehicle. The agency's Enforcement Office and most manufacturers currently test truck-tractors in this manner.

Several questions have been asked by manufacturers with respect to brake adjustment during burnish. The agency has stated in several letters and in preambles to several notices that brake adjustment is permitted to control brake temperature as well as for other reasons during the burnish procedures. No limit has been set on the number of permitted adjustments although the agency referenced by letter that it was considering amending the rule to permit three adjustments, and suggested that manufacturers limit themselves to three adjustments in the interim.

Since burnish is a "break-in" procedure, high temperatures can affect brake adjustment. Some new linings have a tendency to swell during burnish. To provide for this problem and to establish uniformity for manufacturer and agency testing, the agency is proposing to have three brake adjustments during burnish at equal intervals. Both standards would be amended to reflect this change.

A final proposed change is in the standard involves automatic brake adjusters. The agency specifies in Standard No. 105 that these devices can be disconnected during burnish to comply with that standard, but if disconnected, they must remain disconnected throughout the brake tests. If the devices are not disconnected, a brake adjustment is permitted at the end of the burnish and all remaining tests are performed with the adjusters connected. On the other hand, the agency indicated in a letter relating to Standard No. 121 that automatic slack adjusters could not be deactivated in compliance testing or Standard No. 121. The agency reasoned that deactivation of these devices would not test the brakes as they would be used in actual service.

The agency tentatively concludes that automatic slack adjusters or automatic brake adjusters should not be deactivated during brake tests for heavy vehicles and proposes amendments to both standards to make this change. This amendment is made possible by the agency's above-announced change permitting three adjustments during burnish. These adjustments are made manually even to those brake systems that are equipped with automatic adjusters. Since adjustment problems during burnish was the reason for allowing automatic brake adjusters previously to be deactivated, the agency believes that this problem will no longer exist with provision for manual brake adjustment under the amended standards. Vehicles with gross vehicle weights of 10,000 pounds or less will still be permitted to test their brakes by deactivating the automatic brake adjusters.

The agency has considered the costs and other impacts of this proposal and has determined that the proposal would not be major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory procedures. The basis of these determinations is that the proposal would have little impact on the design or cost of vehicles. The proposal is being advanced only to clarify test procedures for truck brake systems. Since the cost impact of the proposal would be minimal, a full regulatory evaluation has not been prepared for this action.

The agency has considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that it would not have a significant economic impact on a substantial number of small entities. The effect of the proposal on small manufacturers of vehicles or vehicle brake systems will be minimal since the proposed changes simply clarify existing test procedures or resolve problem arising with brake temperatures during testing.

The proposal would not have a significant impact on a substantial number of small government jurisdictions or small organizations. While small organizations or governments may purchase these vehicles, their costs should not be impacted by this proposal.

Finally, the agency has analyzed this amendment for purposes of the National Environmental Policy Act. The agency has determined that the implementation of this proposed amendment would not have a significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary argument in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future

rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

To accomplish the changes outlined above, the agency would amend Standard No. 105, *Hydraulic Brakes*, and Standard No 121, *Air Brake-Systems*, in Volume 49 of the Code of Federal Regulations at Part 571, as follows:

Standard No. 105

1. S7. *Test procedures and sequence*, would be amended by deleting the two sentences following the parenthetical after the first sentence of that paragraph and inserting the following sentences:

"For a vehicle with a GVWR of 10,000 pounds of less, automatic adjusters may be locked out, according to the manufacturer's recommendation when a vehicle is prepared for testing. If this option is selected, adjusters must remain locked out for the entire sequence of tests. For a vehicle with a GVWR greater than 10,000 pounds, automatic adjusters shall be connected during all testing."* * *

2. S7.4.2.1—*Burnish*, would be amended by adding the following at the beginning of the second sentence of that paragraph:

"Except where an adjustment is specified,"* * * *

3. S7.4.2.1—*Burnish*, would be amended by adding the following sentences to the end of that paragraph:

"However, if at a snub condition of 40 to 20 mph the temperature of the hottest brake exceeds 550°F., make the remainder of the 500 applications from that snub condition, without regard for brake temperature. The brakes shall be adjusted manually three times during the burnish procedure, in accordance with the manufacturer's recommendations after 125, 250, and 375 snubs."

4. S7.4.2.2. *Brake adjustment—post burnish*, would be revised to read:

"After burnishing, adjust the brakes manually in accordance with the manufacturer's recommendations."

5. S7.6 *First reburnish*, would be amended by deleting the second sentence and replacing it with the following:

"Reburnish a vehicle whose brakes are burnished according to S7.4.2.1 by making 35 snubs from 60 mph to 20 mph, but if the hottest brake reaches 500±50F, make the remainder of the 35 applications from such initial speed divisible by five of at least 40 mph but less than 60 mph as necessary to maintain a temperature of 500°F±50°F. If at a snub condition of 40 to 20 mph the temperature of the hottest brake exceeds 550°F, make the remainder of the 35 applications from that snub condition without regard for brake temperature.

Standard No. 121

1. S6. *Conditions*, would be revised to read:

"The requirements of S5 shall be met by a vehicle when it is tested according to the conditions set forth below, without replacing any brake system part or by making any adjustments to the brake system except as specified. Automatic brake adjusters shall be connected during all testing. Except as otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range. Compliance of vehicles manufactured in two or more stages may, at the option of the final-stage manufacturer, be demonstrated to comply with this standard by adherence to the instructions of the incomplete vehicle manufacturer and any intermediate-stage manufacturer provided with the vehicle in accordance with § 568.4(a)(7)(ii) and § 568.5 of Title 49, Code of Federal Regulations.

2. S6.1.1 Would be amended by adding the following to the end of that paragraph:

"A truck-tractor shall be loaded during the burnish procedure specified in S6.1.8.1 by coupling it to an unbraked flatbed semi-trailer (control trailer). The truck-tractor and the control trailer shall be loaded as specified in S6.1.10.5. The center of gravity of the loaded control trailer shall be as specified in S6.1.10.2.

3. S6.1.8.1 Would be amended by adding the following to the beginning of the second sentence:

"Except where an adjustment is specified," * * *

4. S6.1.8.1 Would be amended by adding the following sentences after the phrase 500°F±50°F:

"However, if at a snub condition of 40 to 20 mph the temperature of the hottest brake exceeds 550°F, make the remainder of the 500 applications from that snub condition, without regard for brake temperature. The brakes shall be adjusted manually three times during the burnish procedure in accordance with the manufacturer's recommendations, after 125, 250, and 375 snubs." * * *

5. S.6.1.8.1 Would be amended by deleting the last sentence and replacing it with the following:

"After burnishing, adjust the brakes manually in accordance with the manufacturer's recommendations."

6. S.2.6 Would be amended by deleting the last sentence and adding the following:

"The brakes shall be adjusted manually three times during the burnish procedure, after 100, 200, and 300 stops, and at the conclusion of the burnishing, in accordance with the manufacturer's recommendations."

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on June 20, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-17120 Filed 6-24-83; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 48, No. 124
Monday, June 27, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

Privacy Act of 1974; Annual Notice of the Existence and Character of Systems of Records

AGENCY: Arms Control and Disarmament Agency.

ACTION: Annual notice of the existence and character of systems of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the U.S. Arms Control and Disarmament Agency gives annual notice of the existence and character of its systems of records.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Grassle, U.S. Arms Control and Disarmament Agency, (202) 632-3442.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the U.S. Arms Control and Disarmament Agency hereby gives annual notice of the existence and character of its systems of records, without changes, as published in the **Federal Register** on September 20, 1977 (42 FR 47464), and amended on June 21, 1978 (43 FR 26602), on September 15, 1980 (45 FR 61003), and on December 16, 1980 (45 FR 82684) as adopted on January 29, 1981 (46 FR 9680).

Dated: June 17, 1983.

William J. Montgomery,
Administrative Director.

[FR Doc. 83-17049 Filed 6-24-83; 8:45 am]
BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922

Extension

Title of the Collection of Information: Part 223 of the Economic Regulations—Free and Reduced Air Transportation
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: U.S. and Foreign Air Carriers
Estimate of number of annual responses: 2,000
Estimate of number of annual hours needed to complete the collection of information: 545

Dated: June 20, 1983.

Robin A. Caldwell,
Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-17283 Filed 6-24-83; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended June 17, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings; see 14 CFR 302.1701 et seq.

Date filed	Docket No.	Description
June 13, 1983	41531	Lockheed Aircraft Service Company, Division of Lockheed Corporation, c/o Michael J. Roberts, Vemar, Liptert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W. Washington, D.C. 20036. Application of Lockheed Aircraft Service Company, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation of persons, property or mail by transport category aircraft in interstate air transportation procured by the Department of Defense as follows: Between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia, pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 8, 1983.
June 15, 1983	41537	Airspur Helicopters, Inc., c/o John W. Simpson, Kelley Drye & Warren, 1333 New Hampshire Avenue, Suite 850, Washington, D.C. 20036. Application of Airspur Helicopters, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas scheduled air transportation of persons, property, and mail: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 13, 1983.
June 13, 1983	41321	British American Air, Inc. c/o Jerry W. Ellinghouse, Potter, Ellinghouse & Miner, 5900 Sepulveda Bulevard, Suite 550, Van Nuys, California 91411. Amended Application of British American Air, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations. (Additional information) Answers may be filed by July 9, 1983.
June 16, 1983	41543	Silvas Air Lines Inc. d/b/a Silvas ** Express, c/o Louis Silvas II, 701 Northdale Cove, Columbus, Mississippi 39701. Application of Silvas Air Lines Inc. d/b/a Silvas ** Express requests permanent authority to engage in interstate, overseas, and foreign charter air transportation of: i. Persons, property and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and a. Any point in Canada,

Date filed	Docket No.	Description
		b. Any point in Mexico, c. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea, d. Any point in Central or South America, and e. Any point in Australia, Indonesia or Asia as far west as longitude 70 degrees east via a transpacific routing. ii. Persons and their accompanied baggage and mail between any point in any State of the United States of the District of Columbia or any territory or possession of the United States and any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India. iii. Persons and property pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 14, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-17282 Filed 6-24-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41414]

Northern Air Lines, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to commence on July 13, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., June 21, 1983.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 83-17264 Filed 6-24-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 10-83; Foreign-Trade Zone 55]

Proposed Subzone at Mitel Semiconductor Plant, South Burlington, Vermont—Application Withdrawn

The application submitted to the Foreign-Trade Zones Board (the Board) by the Greater Burlington Industrial Corporation (GBIC), grantee of Foreign-Trade Zone 55, requesting subzone status for a section of the new manufacturing plant of the Mitel Semiconductor Division of Mitel Corporation, South Burlington, Vermont, has been withdrawn by the applicant. It was formally filed on April 14, 1983 and notice was given in the **Federal Register** on April 28, 1983 (48 FR 19191).

The reason for the withdrawal is that Mitel has changed its plans to conduct operations at the plant in question.

Dated: June 21, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83-17244 Filed 6-24-83; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Black From Mexico

AGENCY: International trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination and countervailing duty order.

SUMMARY: We have determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of carbon black, as described in the "Scope of Investigation" section of this notice. The Net bounty or grant is 0.88 percent *ad valorem.*

EFFECTIVE DATE: June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Semb, Office of Investigations, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION:

Final Determination and Order

Based upon our investigation we determine that certain benefits that constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of carbon black, as described in the "Scope of Investigation" section of this notice. We determine the net bounty or grant to be 0.88 percent *ad valorem.*

Case History

On November 3, 1982, we received a petition from the Cabot Corporation on behalf of the U.S. industry producing carbon black. In compliance with the filing requirements of § 355.26 of the Commerce Regulation (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Mexico of carbon black receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Act. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on November 26, 1982, we started an investigation (47 FR 54526). In the notice, we stated that we expected to issue a preliminary determination by February 1, 1983.

On January 6, 1983, we postponed the preliminary countervailing duty determination to not later than April 4, 1983 (48 FR 1529). Under section 703(c)(1)(B) of the Act, we determined that the case is extrordinarily complicated because the alleged subsidy practices are numerous and complex and present novel issues. We determined that the government of Mexico and the other parties concerned were cooperating, and that additional time was necessary to make the preliminary determination.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. The merchandise being investigated is nondutiable. However, there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require an injury determination for nondutiable merchandise from Mexico. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On December 6, 1982, we presented a questionnaire concering the allegations in the petition to the government of Mexico at its embassy in Washington, D.C. and requested a response from them by January 7, 1983. In a letter dated December 17, 1982, the government of Mexico requested a postponement of the date for the preliminary determination and alleged that the case is

"extraordinarily complicated" under section 703(c)(1)(B) of the Act.

The government of Mexco submitted a response to our questionnaire on February 4, 1983. Additional information was supplied on March 8, 1983. After reviewing the government of Mexico's response, we requested additional information in letters dated March 9 and 18, 1983. We received responses to these on March 18 and 25, 1983.

On April 4, 1983, we issued our preliminary determination in this investigation (48 FR 15304). We preliminarily determined that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of carbon black. The programs preliminarily determined to bestow countervailable benefits were the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) and preferential pricing on natural gas and electric power used to produce carbon black.

We preliminarily determined that the Certificado de Devolucion de Impuesto (CEDI) program has been suspended by the government of Mexico and, therefore, is not being used by the manufacturers, producers, or exporters of carbon black in Mexico.

We preliminarily determined that bounties or grants are not being provided to manufacturers, producers, or exporters of carbon black in Mexico under the following programs:

- Dual currency exchange rate system.
- Preferential rates on commercial risk insurance.

We preliminarily determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by the manufacturers, producers or exporters of carbon black:

- Preferential benefits from government shareholding.
- Preferential federal tax incentives (CEPROFIs) and state tax incentives.
- Preferential financing from the Guarantees and Development Fund for Medium and Small Industry (FOGAIN) and from the National Industrial Development Fund (FOMIN).
- Internal transportation benefits.
- Fund for Industrial Development (FONEI).
- Preferential export marketing benefits.
- Import duty rebates on equipment used in export production.

We preliminarily determined that we needed additional information regarding the following programs:

- Additional regional development benefits.
- Exemption from revenue tax on carbon black feedstock and natural gas purchases.

On April 11–22, 1983, we conducted a verification in Mexico of the responses submitted by the Mexican government.

Our notice of preliminary determination gave interested parties an opportunity to submit oral or written views. We held a public hearing at which counsel for the petitioners, counsel for the Mexican respondents, and a representative from the Mexican embassy participated.

Scope of Investigation

The merchandise covered by this investigation consists of carbon black. Carbon black is currently classified under item number 473.0400 of the *Tariff Schedules of the United States Annotated.* Carbon black is elemental carbon, with some incidental or planned surface oxidation, that is formed under the controlled cracking, heating and cooling of a petroleum derivative feedstock.

Hules Mexicanos, S.A. and NEGROMEX, S.A. de C.V. are the only known producers and exporters in Mexico of the carbon black which was exported to the United States. The period for which we are measuring subsidization is January through September of 1982.

Analysis of Programs

In its responses, the government of Mexico provided data for the applicable period. Based upon our analysis of the petition, the responses to our questionnaires, our verification, and oral and written comments by interested parties we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters of carbon black in Mexico under the programs of the government of Mexico listed below.

A. Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions establish contracts for lines of credit with manufacturers and exporters of merchandise.

Two types of FOMEX financing are available: pre-export (production) financing and export financing. In order for a company to be eligible for FOMEX financing, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have at least 30 percent national content in direct production costs; (3) pre-export loans must be in Mexican currency, while loans for export sales may be in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) on export financing loans, the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent, in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent.

We verified the Mexican government's response that the carbon black industry had received only pre-export financing from FOMEX. In addition, we were able to identify those FOMEX pre-export financing loans provided during the period for which we are measuring subsidization which were directly related to exports of carbon black to the United States. We verified that this pre-export financing was provided at an interest rate of 7 percent. Since FOMEX pre-export financing provides loans for export related purposes at interest rates significantly less than those for comparable commercially available loans, we determine that this program confers a bounty or grant.

To calculate the benefit from these loans we used the same methodology as in our preliminary determination. As a benchmark for the commercial peso rate of interest, we used the national average commercial interest rate for comparable short-term peso loans during the period January through September of 1982, which was 59.32 percent. Using the Department's standard short-term loan methodology, we calculated the benefit of the FOMEX loans and allocated this benefit over the value of Hules Mexicanos' and NEGROMEX's exports of carbon black to the United States. Exports were used because FOMEX financing operates and is intended to stimulate export performance over domestic sales. On this basis, we calculated an *ad valorem* benefit of 0.70 percent.

B. Preferential Prices on Petroleum Products, Natural Gas, and Electric Power Used To Produce Carbon Black

In Mexico, Petroleos Mexicans (PEMEX) is the special government entity which owns and controls production of petroleum products including carbon black feedstock and natural gas, used as an energy source in producing carbon black. The petitioner alleges that the Mexican government, through PEMEX, maintains a price structure for petroleum and natural gas which operates to establish a two-tier system of benefits to the carbon black industry. The alleged first-tier benefit, granted under the National Industrial Development Plan (NIDP), results from the differences between the government-controlled domestic prices on petroleum products and natural gas paid by Mexican carbon black producers and the higher "world market prices" paid by U.S. producers. The alleged second-tier benefit consists of a preferential 30 percent discount on the controlled national prices of carbon black feedstock and natural gas. This price discount is given by the Mexican government to qualifying enterprises, including carbon black, which are located in certain priority development regions established under the NIDP.

Regarding the first-tier benefit, the prices of Mexican petroleum feedstock and natural gas in the export market were substantially higher than the domestic prices of petroleum feedstock and natural gas within Mexico during the period for which we are measuring subsidization. The existence of a price differential between export and domestic sales of petroleum feedstock and natural gas, however, does not in and of itself confer a bounty or grant on carbon black producers within Mexico. Rather, we follow the criteria in section 771(5) of the Act to determine whether this practice confers either an export or domestic bounty or grant. While this investigation is governed procedurally by section 303 of the Act, the analysis of programs is based on Title VII of the Act (*See* section 103(b) of the Trade Agreements Act of 1979).

On this basis, we determine that the pricing differential for export and domestic sales of Mexican petroleum feedstock and natural gas confers neither an export subsidy nor a domestic subsidy upon the Mexican carbon black industry. The pricing differential does not confer a benefit contingent upon export performance, or stimulate export sales of carbon black over domestic sales. Nor does it benefit a "specific enterprise or industry, or group of enterprises or industries" under section 771(5)(B) of the Act within Mexico.

In addition to the export and domestic pricing differential described above, we have found that there are two categories of natural gas prices in Mexico, one for industrial use and another for residential, commercial and service use. Both are set by the Direction General de Precios of the Secretaria de Comercio.

We verified that all industrial users of natural gas not receiving sectoral or regional discounts under the NIDP are charged the same price for this product (*See* analysis of second-tier regional benefit below). Since all industrial users of natural gas can obtain this good at the same price, natural gas is not provided at a preferential price to a "specific enterprise or industry, or group of enterprises or industries." In addition, the price to all industrial users of natural gas is not contingent upon export performance. Nor do we have any information that the pricing policy for industrial users is operated to stimultate export sales over domestic sales. Therefore, the difference between the prices of natural gas to residential users and to industrial users confers neither a domestic nor an export bounty or grant.

The alleged second-tier benefit consists of a preferential 30 percent discount on the controlled national prices of petroleum feedstock and natural gas granted under the NIDP to selected enterprises, including a carbon black plant, located in certain regions. We learned that such discounts may be granted to such industries for electric power and other petrochemical products as well.

The criteria for price differentials of these products under the NIDP are contained in the Regulations Regarding Price Differentials published in the *Diario Oficial de la Federacion (Diario Oficial)* on December 29, 1978, and June 19 and 21, 1979. Under certain conditions, Articles 8 and 9 allow 30 percent discounts on the cost of industrial energy or basic petrochemical products to firms located in Priority Zone 1A. Article 9A exempts companies established in priority zones from the Electric Energy Contractual Fee. Article 9C allows companies located in priority Zone 1B that develop new industrial plants to receive a 30 percent discount on two of the following inputs: electric power, natural gas, combustibles or basic petrochemical products. Articles 8 and 9A through 9D confer regional bounties or grants, while Article 9 confers an export bounty or grant since one of its prerequisites is an export commitment.

We verified that Hules Mexicanos has a carbon black plant located in priority Zone 1A and receives a 30 percent discount (more specifically, an "offset in subsequent bills" equal to 30 percent of prior bills) only on its natural gas costs and electric power rates, and not on its combustibles or basic petrochemical products. Consequently, we determine that the carbon black industry has received domestic bounties or grants through the provision of preferential prices for natural gas and electric power. We verified that the carbon black industry did not receive any additional regional development benefits.

We verified that the carbon black industry began receiving the 30 percent discounts discussed above in September 1982, the final month of the period for which we are measuring subsidization. These benefits are still being received. For purposes of this final determination, we calculated the net benefit by dividing the benefit from the regional price differential for natural gas and electric power received in September 1982 by total sales of carbon black during the period for which we are measuring subsidization. We determine the net benefit for the regional price differential on natural gas to be 0.05 percent *ad valorem* and the net benefit for the regional price differential on electirc power to be 0.09 percent *ad valorem*, for a total bounty or grant of 0.14 percent *ad valorem* for the period for which we are measuring subsidization. However, because we know that the benefits continued in effect from September 1982, for duty deposit purposes we have calculated that the bounty or grant currently being provided for natural gas is 0.50 percent *ad valorem* and the bounty or grant currently being provided for electric power is 0.81 percent *ad valorem*, for a total bounty or grant of 1.31 percent *ad valorem*. Therefore, we note that the bounty or grant shown in the "Administrative Procedures" section of this notice is different from the bounty or grant found during the period for which we are measuring subsidization.

C. Fund for Industrial Development (FONEI)

FONEI is a financial development fund, administered by the Bank of Mexico, which grants long-term credit at below market rates to enterprises which create, expand, or modernize their facilities while at the same time meeting specified goals, including industrial decentralization. FONEI funds are available only for projects located outside of Zone III, the area of

controlled industrial growth (Mexico City, Guadalajara, and Monterrey).

Because the financing is provided at below-market rates and because FONEI benefits are limited to companies which locate in specified regions, we determine that FONEI financing confers a benefit which constitutes a bounty or grant within the meaning of the countervailing duty law upon the producers, manufacturers or exporters of carbon black from Mexico.

During verification, we found that NEGROMEX did receive FONEI financing. This loan was obtained in March 1977 for a period of 8 years. NEGROMEX had a three-year grace period from March 1977 to July 1980 during which only interest was paid.

We used as our benchmark for the commercial rate of interest in Mexico, the national average commercial rate for comparable peso-denominated loans applicable in March 1977. As best available information for this rate, we used a figure of 15.5 percent obtained from *World Financial Markets* which is published by Morgan Guaranty Bank of New York.

We computed the difference in payment between the FONEI loan and that which would have been incurred had this loan been made at the benchmark commercial rate of interest. We allocated the amount of benefit from this loan over the companies' total sales value of carbon black during the period January 1, 1982 to September 30, 1982.

We determine the net amount of the bounty or grant to be 0.04 percent *ad valorem*.

II. Program Determined To Be Suspended

The Certificado de Devolucion de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

By an executive order published on August 25, 1982, in the *Diario Oficial*, the government of Mexico suspended the eligibility of the product under investigation from CEDI tax rebates. The order abrogates prior executive orders which contained the list of products eligible to receive CEDI certificates. Suspension of the eligibility to apply for the CEDI was effective one day after publication of the executive order in the *Diario Oficial*.

Although exporters of the merchandise under investigation received benefits under the CEDI program during the first half of 1982, the CEDI ceased to be available after August 25, 1982. We verified that the carbon black industry used the CEDI certificates on a current basis; therefore, the carbon black that was accorded benefits under this program is not likely to enter the United States on or after the date of suspension of liquidation of the merchandise.

Therefore, although the CEDI program would be countervailable, we are not setting a cash deposit rate for it. If this program is reactivated, the Department will review its application to respondents in the annual reviews conducted under section 751 of the Act.

III. Program Determined Not To Confer a Bounty or Grant

We determine that the program listed below which was listed in the notice of "Initiation of Countervailing Duty Investigation—Carbon Black from Mexico" (47 FR 54526) does not confer a bounty or grant to the manufacturers, producers, or exporters in Mexico of carbon black.

Dual Currency Exchange Rate System

The petitioner alleges that the carbon black industry may have received exchange rate benefits on exports because of Mexico's dual exchange rate system. We verified that Mexican exporters of carbon black who receive U.S. dollars for their products must deposit these dollars in accounts where they are exchanged for pesos at a Mexican government "controlled" rate. Currently, the controlled rate is significantly less than the "free" rate of exchange. Thus, this program appears to harm rather than benefit Mexican exporters. Therefore, we determine that the dual level currency exchange system does not confer a bounty or grant upon the manufacture, production, or export of carbon black from Mexico.

IV. Programs Determined Not To Be Used

We determine that the programs listed below which were listed in the notice of "Initiation of Countervailing Duty Investigation—Carbon Black from Mexico" (47 FR 54526) are not being used by the manufacturers, producers, or exporters in Mexico of carbon black.

A. Preferential Benefits From Government Shareholding in the Two Mexico Carbon Black Producers

The petitioner alleges that Hules Mexicanos and NEGROMEX, the two known producers of carbon black, have received preferential benefits including preferential financing, because of government shareholding in each company. As is well established, government ownership *per se* is not a bounty or grant. PEMEX owns 60 percent of Hules Mexicanos. We verified that Hules Mexicanos did not receive any direct or indirect preferential benefits, such as discounts on the price of carbon black feedstock, or any preferential financing as a result of PEMEX ownership. The Nacional Financiera (NAFINSA), a Mexican government development bank, owns 10 percent or less of the stock of NEGROMEX. We found no evidence that NEGROMEX received any direct or indirect preferential benefits or preferential financing because of government shareholding in NEGROMEX.

B. Preferential Federal and State Tax Incentives

We verified that the carbon black industry did not receive any federal tax certificates, known as Certificado de Promocion Fiscal (CEPROFI). CEPROFIs are used to promote the NIDP goals, which include increased employment, the promotion of regional development and decentralization, and industrial development.

We verified that the carbon black industry paid all applicable federal taxes. Further, we verified that carbon black feedstock is not subject to a revenue tax. We also verified that neither NEGROMEX nor Hules Mexicanos received indirect benefits from tax rebates available to export trading companies.

In addition, there is no evidence to indicate that the carbon black industry received any tax incentives, tax discounts or tax rebates from Mexican state or local governments. Nor is there any evidence that the carbon black industry received any special treatment on real estate or local infrastructure taxes.

C. FOGAIN and FOMIN Preferential Financing

The Guarantee and Development Fund for Medium and Small Industries (FOGAIN) provides financing to small and medium-sized businesses at rates below those of commercial lending institutions. We verified that the carbon

black industry did not receive FOGAIN financing.

The Fondo Nacional de Fomentio Industrial (FOMIN) operates as a trust fund, providing funding to certain small and medium-sized companies through either stock acquisition or the provision of convertible loans at rates below those of commercial lending institutions. We verified that the manufacturers, producers, or exporters of carbon black in Mexico did not receive benefits through FOMIN.

D. Internal Transportation Benefits

We verified that the carbon black industry has not received freight rebates or discounts for transporting carbon black for export by rail to border areas in Mexico.

E. Preferential Export Marketing Benefits (IMCE)

Created by law published December 31, 1970 in the *Diario Oficial*, the Instituto Mexicano Comercio Exterior (IMCE) has as its organizational purpose the promotion of the foreign trade of Mexico and the coordination of efforts stimulating foreign trade. In addition, IMCE functions as an advisory board in the previously mentioned matters. We verified that neither of the companies manufacturing, producing, or exporting carbon black used any of the services offered by IMCE.

F. Import Duty Rebates on Equipment Used in Export Production

We verified that the carbon black industry has not received import duty reductions or rebates on imported equipment.

G. Preferential Rates on Commercial Risk Insurance

The petitioner alleges that the carbon black industry has benefited from preferential rates on commercial risk insurance through the Compania Mexicana de Seguros de Credito (COMESEC). COMESEC, which provides export commercial risk insurance, was specifically established by law but is owned and operated by private companies. The premium rates that COMESEC charges manufacturers, producers, or exporters cover COMESEC's operating costs and losses on insurance operations. In the Department's previous determination, *Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Toy Balloons (Including Punchballs) and Playballs from Mexico* (47 FR 57532), we determined that COMESEC did not provide a bounty or grant to manufacturers, producers, or exporters of the subject merchandise in those investigations.

In addition, we verified that Hules Mexicanos and NEGROMEX did not obtain insurance from COMESEC.

Petitioners' Comments

Comment 1

The transfer of value from the government of Mexico to the carbon black industry, through the sale of government-owned raw materials, carbon black feedstock and natural gas, at a price below that which the government could have obtained in an open world market transaction constitutes a countervailable subsidy.

DOC Position

The existence of a price differential between world market and domestic prices of carbon black feedstock and natural gas does not in itself confer a subsidy. As described in the section titled "Preferential Prices on Petroleum Products, Natural Gas, and Electric Power Used to Produce Carbon Black," we determined that all industrial users of carbon black feedstock and natural gas in Mexico can obtain these goods at the same price. Therefore, these rates for carbon black feedstock and natural gas are generally available, because they are provided to more than a "specific enterprise or industry, or group of enterprises or industries" within the meaning of section 771(5)(B) of the Act.

However, even if carbon black feedstock and natural gas were not generally available, we would not find this rate to be a subsidy, because this rate is not preferential within the meaning of subsection 771(5)(B)(ii) of the Act. While we recognize that subsections (i)–(iv) do not constitute an all-inclusive list of domestic subsidies, we maintain that, where a particular subsection clearly covers a given program, the determination whether that program is a subsidy must be based upon the standard contained in the relevant subsection. Also, while there may be situations in which it may be debatable as to which subsection most clearly describes a particular program, that problem does not arise here, because the provision of carbon black feedstock and natural gas clearly involves the provision of goods within the meaning of subsection (ii). Therefore, we determine that subsection (ii) is the controlling provision insofar as the provision of carbon black feedstock and natural gas by the government of Mexico is concerned.

The standard contained in subsection (ii) is "preferential", which normally means only more favorable to some within the relevant jurisdiction than to others within the jurisdiction. In this context, it does not mean "inconsistent with commercial considerations," a distinct term used in subsection (i) (which is not applicable with regard to the provision of carbon black feedstock and natural gas, because they do not involve the provision of capital, loans, or loan guarantees). Therefore, we do not regard an "open world market transaction" benchmark as the appropriate standard for determining whether the provision of carbon black feedstock and natural gas to the carbon black industry is a bounty or grant.

Comment 2

The refusal of the Mexican government to sell carbon black feedstock to a willing foreign purchaser at the domestic price and the fact that there are only two possible domestic purchasers of this material proves that carbon black feedstock is not generally available.

DOC Position

Carbon black feedstock is available at the same price to any domestic enterprise in Mexico which cares to use it. The only limitations as to the types of enterprises or industries which use this material reflect the inherent nature of the product and the current level of the technology. Any current limitations on use are not due to activities of the Mexican government. Moreover, a substantially equivalent product, number six fuel oil, is provided by Pemex and was used by a variety of diverse industries which purchased it at substantially equivalent prices during the period under investigation.

With respect to the Mexican government's alleged refusal to sell carbon black feedstock to foreign purchasers at the domestic price, this is not relevant to the question of whether carbon black feedstock is or is not generally available in Mexico.

Comment 3

The "synergistic whole of Mexico's practices and policies" including the government of Mexico's provision of $2 per barrel carbon black feedstock and other "subsidies" to the Mexican carbon black producers, plus the maintenance of price controls on the merchandise at prices below the U.S. market prices, results in an export subsidy.

DOC Position

We agree that the government of Mexico provides an export bounty or grant to the carbon black producers under the FOMEX program. We also

determined that the producers received domestic bounties or grants under two additional programs of the Mexican government. See the sections of this notice titled "Preferential Prices on Petroleum Products, Natural Gas, and Electric Power Used to Produce Carbon Black" and "Fund for Industrial Development (FONEI)" for a discussion of why these programs are not export bounties or grants.

It is uncontested that the government of Mexico controls the production of petroleum, natural gas and primary petrochemicals, and sets prices within Mexico for petroleum products. However, none of these practices and policies result in an export bounty or grant.

Programs which individually do not confer export subsidies cannot confer export subsidies when combined in a "synergistic whole".

Comment 4

The government of Mexico provides a bounty or grant to carbon black producers because the hydrocarbon prices for industrial users are less than the prices to consumers.

DOC Position

We verified that the prices of hydrocarbons to industrial users are available to all industrial users. Since this price is not limited to a "specific enterprise or industry, or group of enterprises or industries," the price differential does not constitute a bounty or grant.

Comment 5

The strict controls over convertible currency in Mexico provide a motive for favoring exports over domestic sales. The government of Mexico will not allow domestic industries to have access to foreign currency to buy needed raw materials and equipment from abroad, which has forced Mexican companies to export Mexican produced products for barter.

DOC Position

See the section of this notice entitled "Dual Currency Exchange Rate System" for a discussion of why this program does not provide a bounty or grant. There is no evidence in this record of any barter system involving the carbon black industry.

Comment 6

The Provision by the Mexican government to the carbon black industry of preferential freight rates (less than average internal freight rates) on carbon black shipped to U.S./Mexico border crossing points constitutes an export subsidy.

DOC Position

We verified that the carbon black industry did not receive any freight rate discounts or rebates.

Comment 7

The carbon black industry is eligible for and received a 30 percent regional discount on its purchases of carbon black feedstock. This 30 percent regional discount, which is authorized by the NIDP, constitutes a countervailable subsidy.

DOC Position

We do agree that the 30 percent regional discount constitutes a countervailable subsidy (see the section of this notice entitled "Preferential Prices on Petroleum Products, Natural Gas, and Electric Power Used to Produce Carbon Black"). However, we verified that neither NEGROMEX nor Hules Mexicanos received discounts or rebates on their purchases of carbon black feedstock.

Comment 8

Due to government shareholding in both carbon black producers, the carbon black industry has received preferential financing.

DOC Position

We have verified that the only preferential financing received by the carbon black industry consisted of FOMEX and FONEI loans. Both FOMEX and FONEI loans constitute countervailable subsidies. See the section of this notice titled "Programs Determined to Constitute Bounties or Grants."

Comment 9

The carbon black industry has not been required to pay taxes on its purchases of carbon black feedstock. This forgiveness or non-collection of required taxes constitutes a bounty or grant.

DOC Position

The only "sales" tax the carbon black industry is required to pay is an "I.V.A." or value added tax. We verified that NEGROMEX and Hules Mexicanos must pay the full amount required.

Comment 10

The Department's calculation of the benefit from regional discounts for electricity and natural gas is too low. The department should calculate this benefit based on the percentage that natural gas represents of the cost of non-Mexican carbon black production because natural gas is such a significant part of the cost of production.

DOC Position

We verified the amount of the benefit that the Mexican carbon black industry received under the NIDP for electricity and natural gas and used that figure to determine the bounty or grant to the carbon black industry.

Comment 11

The carbon black industry has not paid an export tax on exports of crude oil and petroleum derivatives, or any other statutorily established export tax when carbon black was exported to the United States.

DOC Position

The export tax on crude oil and petroleum derivatives is one of a number of export duties which the Government of Mexico levies on a variety of exports. PEMEX is the only enterprise required to pay an export tax on crude oil and petroleum derivatives. Taxation is a normal function of government, the overall effects of which are macroeconomic in scope. Export taxes are imposed for a variety of reasons, including raising revenues. They are no different from a regime of varying import duties, which benefits some industries more than others but is not considered countervailable under U.S. law or the General Agreement on Tariffs and Trade (GATT).

Comment 12

Domestic price controls on carbon black operate to confer export bounties or grants by serving as an inducement to export excess production to more profitable foreign markets.

DOC Position

Price controls on domestically sold goods do not automatically impart an "unfair competitive advantage" to exports of the same goods and, therefore, do not confer a bounty or grant (*See Zenith Radio Corp.* v. *U.S.* 437 U.S. 443 (1978)). We also note that, by regulations published in the *Diario Oficial* on December 20, 1982, price controls on carbon black were lifted, effective January 1, 1983.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials and on-site

inspection of the records and operations of NEGROMEX and Hules Mexicanos.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.34(a)). Oral and written views have been received and considered.

The suspension of the liquidation ordered in our preliminary affimative determination shall remain in effect until further notice. The net bounty or grant for duty deposit purposes is 2.05 percent *ad valorem*.

As required by section 706(a)(3), we are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act. The net bounties or grants for the period we are measuring subsidization is smaller than the 1.55 percent *ad valorem* bounty or grant preliminarily determined.

The Department intends to conduct administrative reviews with 12 months of publication of this determination as provided in section 751 of the Act.

This notice is published pursuant to section 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-17239 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held July 13, 1983, at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to semiconductors or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Subcommittee reports:
a. Discrete Semiconductor Device,
b. Microcircuits, and
c. Semiconductor Manufacturing Materials and Equipment.
4. Discussion of Part 379, proposal for technical data control licensing procedures.
5. Discussion of foreign availability.
6. Preliminary discussion of the annual plan for the Commitee.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217.

For further information or copies of the minutes contact Margaret Cornejo (202) 377-2583.

Dated: June 21, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-17241 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Exporters' Textile Advisory Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department of Commerce officials concerning ways of increasing U.S. export of textile and apparel products.

Time and place: July 20, 1983 at 10:00 a.m. The meeting will take place at 14th & Constitution Avenue, NW., Room 4830, Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, N.W.)

AGENDA: (1) Review of export data, (2) Report on conditions in the export market, (3) Recent foreign restrictions affecting textiles, (4) Other business.

Public participation: A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Tel: 202/377-3737.

Date: June 16, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-17240 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Open Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held July 20, 1983; 1:00 p.m., Herbert C. Hoover Building, room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise Department officials on problems and conditions in the textile and apparel industry.)

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377-3737.

Dated: June 21, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-17242 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Minority Business Development Center Program; Solicitation of Applications; Texas

AGENCY: Department of Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning September 30, 1983 in the Houston, Texas SMSA. The cost of the project is estimated to be $770,000. The maximum Federal participation amount is $693,000. The minimum amount required for non-Federal

participation is $77,000. The award number will be 06–10–83018–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions

CLOSING DATE: 5:00 p.m., July 11, 1983.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT: Melda Cabrera, telephone (214) 767–8001.

The closing date for submitting an application is July 11, 1983. An application kit is available upon written request.

A pre-application conference to assist all interested applicants will be held at the Veterans' Administration Regional Office, International Trade Center Building, 2515 Murworth, Room 121, Houston, Texas at 10:00 a.m., July 8, 1983.

Ben Chavez,

Acting Regional Director.

U.S. Dept. of Commerce, Dallas Regional Office, Minority Business Development Agency, 1100 Commerce St., Suite 7B23, Dallas, TX. 75242.

H—Cooperative Agreement Under the Minority Business Development Center (MBDC) Program to operate a project for a 12-month period beginning September 30, 1983 in the Houston, TX. SMSA. This project will operate at a cost not to exceed $770,000. Maximum federal participation is $693,000. Minimum non-federal participation is $77,000. The project award number will be 06–10–83018–01. MBDA offers competitive cooperative agreements to all individuals, non-profit organizations, for-profit firms, local and state governments, federally recognized American Indian Tribes and educational institutions to perform the functions of an MBDC which are: to provide additional technical and management assistance to disadvantaged businesses; to maintain (updating and verification of entries) inventory of existing minority businesses and prospective entrepreneurs, and to provide brokering services that will foster and promote new business ownership, business expansions, market opportunities, new capital sources, and to prevent business failures. Legal services are excluded. Applicants shall be required to contribute at least 10 percent of the total program costs through non-federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10 percent for firms with gross sales of $500,000 or less and 25 percent for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee for services, or in-kind contributions. The program is subject to OMB Circular A–95 requirements. Closing date for submission of applications is 5:00 p.m., July 11, 1983.* Application kits can be obtained by writing or calling 214/767–8001. Contact: Melda Cabrera. A pre-bid conference will be held at the Veterans' Administration Regional Office, International Trade Center Building, 2515 Murworth, Room 121, Houston, Texas 77054 (near the Astrodome) on July 8, 1983 at 10:00 a.m.

[FR Doc. 83–17214 Filed 6–24–83; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Reopening of Comment Period on Application; Sea World, Inc.

On March 17, 1983, Notice was published in the **Federal Register** (48 FR 11310) that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 for a Scientific Research/Public Display permit under the Marine Mammal Protection Act of 1972 to take killer whales. The public comment period was subsequently extended until June 17, 1983 (48 FR 16934 and 22976).

Notice is hereby given that the National Marine Fisheries Service has received additional information from Sea World concerning their request, and the comment period is being reopened. Written data or views concerning this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235 within 30 days of the publication of this notice.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: June 21, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–17181 Filed 6–24–83; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council's Anchovy Advisory Subpanel; Public Meeting

AGENCY: National Marine fisheries Service, NOAA, Commerce

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established an Anchovy Advisory Subpanel, which will meet to discuss current anchovy management matters.Topics on the agenda include (1) a review of recent technical changes to a draft proposed amendment to the Northern Anchovy Fishery Management Plan, (2) recommendations to the Council on preferred management measures in the draft amendment, and (3) review of the 1983–84 estimated anchovy spawning biomass and harvest quotas. Members of the public will be permitted to submit oral or written statements regarding these matters at a time specified by the Advisory Subpanel Chairman.

Time and date: The public meeting will convene at 10 a.m., July 14, 1983, and will take place at the Federal Customs Building, Main Conference Room, Room 2032, 300 South Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: June 22, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–17235 Filed 6–24–83; 8:45 am]

BILLING CODE 3510–22–M

Receipt of Application for General Permit; Volcano Isle Wholesale Fish Co., Inc.

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

The Volcano Isle Wholesale Fish Co., Inc. of Hawaii has applied for a

Category 5 "Other Gear" general permit to take by harassment an undetermined number of bottlenose dolphins, rough-toothed dolphins and false killer whales during commercial fishing operations around the main Hawaiian Islands. The general permit, if issued, would become effective January 1, 1984 upon expiration of the current general permit held by the Pacific Coast Federation of Fishermen's Associations.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on the application within thirty days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: June 17, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-17182 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 644

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 17, 1983 the Government of the United States requested consultations with the Government of Hong Kong with respect to Category 644 (women's, girl's and infants' man-made fiber suits). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong, relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 644, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Government of the United States also reserves the right to control imports of this category at the established limit.

Any party wishing to comment or provide data or information regarding the treatment of Category 644 under the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement with the Government of Hong Kong or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a) (1) relating to matters which consititute "a foreign affairs function of the United States."

Dated: June 22, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-17243 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc. Aluminum; Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Commodity Exchange, Inc. ("Comex") has applied for designation as a contract market in aluminum. 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 August 26, 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 Comex aluminum futures contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, 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 Comex's proposed aluminum 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 Comex 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 Comex 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 August 26, 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 June 22, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-17235 Filed 6-24-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 20, 1983.

The USAF Scientific Advisory Board Summer Study Advanced Tactical Fighter (ATF) Technologies, will meet at the U.S. Naval Postgraduate School, Monterey, California, on August 1–12, 1983. The purpose of the meeting will be to construct a report and briefing for senior USAF leadership on technology initiatives necessary for support of the ATF concept development. The meeting will convene at 8:00 a.m. and adjourn at 4:00 p.m. each day.

The meeting concerns matter listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-17166 Filed 6-24-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

June 20, 1983.

The USAF Scientific Advisory Board Summer Study on Software will meet at the Naval Postgraduate School, Monterey, California, on August 1–12, 1983. The purpose of the meeting will be to construct a report and briefing to the HQ USAF on software initiatives and future trends. The meeting will convene at 8:00 am and adjourn at 4:00 pm each day.

The meeting will be open to the public; however, any person seeking presentation time on the agenda should submit the topic, academic and/or industrial credentials associated with the topic, and a letter of justification to the Secretariat below.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-17169 Filed 6-24-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of the following material: Contract Number WC–IA–131, to the IAEA, Vienna, Austria, eight foils, containing a total of 3.563 grams of uranium enriched to 93% in U-235, to be used as instrument calibration standards.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 83-17140 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–CA–340, to Eldorado Resources, Ltd., Ontario, Canada, 821 grams of natural uranium for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 83-17145 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangements, Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

Contract Number S–EU–775, to the Central Bureau for Nuclear Measurements, Geel, Belgium, 0.02 grams of plutonium-244, for use as standard reference material.

Contract Number S–CA–339, to Dension Mines, Ltd., Ontario, Canada, 84–8 grams of natural uranium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days

after the date of publication of this notice.

For the Department of Energy.

Dated: June 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-17146 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangements; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material:

Contract Number WC-EU-247, to the Service de Physique, Centre d'Etudes de Bruyeres le Chatel, France, 15 milligrams of thorium-229, for use in collaborative experiments to study fission properties of thorium isotopes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of nuclear material will not be inimical to the common defense and security

This subsequent arrangment will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-17147 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community and Austria

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/AT(EU)-61, to Seibersdorf, Austria, from Julich, the Federal Republic of Germany, fuel spheres and coated particles containing 72.16 grams of uranium, enriched to 6.85% in U-235, 0.90 grams of plutonium, and 21.82 grams of thorium, for ultimate disposal, following post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-17148 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-164]

Ashland Petroleum Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Ashland Petroleum Company (Ashland), Ashland Drive, Ashland, Kentucky 41114, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its facility in Covington, Kentucky, pursuant to CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, 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.

In its application, Ashland indicates that the volume of natural gas for which it requests certification is approximately 29,000 Mcf per year. This volume is estimated to displace the use of approximately 4,600 barrels of No. 6 fuel oil (0.9 percent sulfur) per year.

The eligible sellers are Exxon USA, P.O. Box 2810, Houston, Texas 77001, Texas Gas Transmission Corporation, 3800 Frederica Street, P.O. Box 1160, Owensboro, Kentucky 42301, and Ohio Gas Marketing Corporation, 3933 Price Road, Newark, Ohio 43055. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325, and by The Union Light, Heat and Power Company, P.O. Box 32, Covington, Kentucky 41012, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Ashland and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on June 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-17144 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-099]

Brewer Co., Inc.; Application for Certification of the Eligible Use of Natural Gas To Displace Fuel Oil

The Brewer Company, Incorporated (Brewer), 7374 Main Street, Cincinnati, Ohio 45244, filed an application on May 13, 1983 with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace

fuel oil at four of its asphalt production facilities located in the metropolitan area of Cincinnati, Ohio, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, 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.

In its application, Brewer indicates that the volume of natural gas for which it requests certification is approximately 11,482 Mcf per year. This volume is estimated to displace the use of approximately 70,000 gallons of No. 4 fuel oil (.6 percent sulfur) per year.

The eligible sellers are Exxon USA, P.O. Box 2810, Houston, Texas 77001; Texas Gas Transmission Corporation, 3800 Frederica Street, P.O. Box 1160, Owensboro, Kentucky 42301; and Ohio Gas Marketing Corporation, 3933 Price Road, Newark, Ohio 43055. The gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325; Texas Gas Transmission Corporation, 3800 Frederica Street, P.O. Box 1160 Owensboro, Kentucky 42301; The Cincinnati Gas and Electric Company, P.O. Box 960, Cincinnati, Ohio 45202; and by The Union Light, Heat and Power Company, P.O. Box 32, Covington, Kentucky 41012.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Brewer and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 20, 1983

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-17140 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-158]

Carlisle Tire & Rubber Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Carlisle Tire and Rubber Co. (Carlisle), P.O. Box 99, Carlisle, Pa., filed an application on June 2, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Carlisle, Pa., plant, pursuant to 10 CFR Part 595 (44 FR 74920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, 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.

In its application, Carlisle indicates that the volume of natural gas for which it requests certification is approximately 234,000 Mcf per year. This volume is estimated to displace the use of approximately 1,625,000 gallons of No. 6 fuel oil (2.0 percent sulfur) per year.

The eligible seller is Victory Development Company, 114 Wilmar Drive, Pittsburgh, Pa. 15238. The gas will be transported by Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314; and by UGI Corporation—Gas Utility Division, 225 Morgantown Road, Reading, Pa. 19611, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Carlisle and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-17141 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-188]

Buffalo Color Corp., Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Buffalo Color Corporation, One Garret Mountain Plaza, West Paterson, New Jersey 07424, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its facility at 340 Elk Street, Buffalo, New York 14240, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal Holidays.

In its application, Buffalo Color Corporation indicates that the volume of natural gas for which it requests certification is approximately 827,100 Mcf per year. This volume is estimated to displace the use of approximately 5,514,000 gallons of No. 6 fuel oil (1.1 percent sulfur) per year.

The eligible sellers are enviro Gas, Inc., 1 Grimsby Drive, Hamburg, New York 14075; P & S Drilling Company, 10305 Main Street, Clarence, New York 14031; and Alden and Aurora Gas Corporation, 13441 Railroad Street, Alden, New York 14004. This gas will be transported by National Fuel Gas Supply Corporation, 306 Seneca Street, Oil City, Pennsylvania 16301; and by

National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Buffalo Color Corporation and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–17142 Filed 6–24–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–167]

Vulcan Materials Co., Metals Division; Application for Certification of the Eligible Use of Natural Gas To Displace Fuel Oil

Vulcan Materials Company, Metals Division (Vulcan), P.O. Box 6501, Baltimore, Maryland 21219, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Metals Division Baltimore Plant, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, 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.

In its application, Vulcan indicates that the volume of natural gas for which it requests certification is approximately 142,000 Mcf per year. This volume is estimated to displace the use of approximately 23,715 barrels of No. 4 fuel oil (1.0 percent sulfur) per year.

The eligible sellers are Target Exploration, 301 Clark Building, Columbia, Maryland 21043; Yankee Resources, Inc., 1105 Schrock Road, Columbus, Ohio 43229; and Exxon USA, P.O. Box 2810, Houston, Texas 77001. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325, and by Baltimore Gas and Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, a local distributor.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Vulcan and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–17143 Filed 6–24–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP79–473–004]

Alabama-Tennessee Natural Gas Co., et al.; Petition for Continuation of Certificated Firm Service

June 22, 1983.

Take notice that on May 12, 1983, Kimberly-Clark Corporation (Kimberly-Clark), 1000 Wilson Boulevard, Arlington, Virginia 22209, filed in Docket No. CP79–473–004 a petition pursuant to § 385.207(a)(5) of the Commission's Rules of Practice and Procedure (18 CFR 207(a)(5))[1] requesting the Commission to authorize Alabama-Tennessee Natural Gas Company (A-T) to continue indefinitely the firm sales of up to 300 Mcf of natural gas per day to North Mississippi Natural Gas Corporation (North Mississippi) for resale to Kimberly-Clark's Corinth Mills in Corinth, Mississippi, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Kimberly-Clark states that the order issued December 18, 1980, in Docket No. CP79–473 approving an uncontested settlement provided, *inter alia*, that A-T would be authorized to sell to North Mississippi for resale to Kimberly-Clark (1) up to 300 Mcf of gas per day on a firm basis for the period ending October 27, 1983, and (2) up to 216 Mcf on a firm basis and 84 Mcf on a best-efforts basis for the following year, but that for good cause shown, firm sales could be continued past the periods noted in (1) and (2) above.

Kimberly-Clark indicates that good cause exists to extend the firm sales indefinitely. It is stated that no alternative fuel exists for the "meltblown" process requiring 216 Mcf of gas per day and that no efficient and economical alternative to the 84 Mcf of gas per day required for the pollution control devices is available without significant design modifications.

Kimberly-Clark asserts that the required volumes are *de minimis* and that no adverse change in A-T's gas supply situation has occured since 1980 when the parties to the settlement agreement stipulated that A-T's supplies were adequate to permit the additional services provided for (including the 300 Mcf for Kimberly-Clark). Kimberly-Clark also asserts that failure to authorize the requested continued firm service would compel the expenditure of substantial

[1] A-T, the holder of the certificate in Docket No. CP79–473 filed on May 19, 1983, a motion in support of Kimberly-Clark's petition.

sums to connect to alternative fuels (which may not be technically feasible), might jeopardize plant operations, create economic dislocations, might well result in a further loss of industrial load, and would be unreasonably discriminatory.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17220 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. 83-14-000]

Connecticut Municipal Electric Energy Cooperative et al.; Order Setting Complaint for Hearing and Disposing of Motions

Issued: June 21, 1983.

In the matter of Connecticut Municipal Electric Energy Cooperative v. Northeast Utilities and its subsidiaries, the Connecticut Light and Power Company, Northeast Utilities Service Company, and Northeast Nuclear Energy Company.

On March 31, 1983, Connecticut Municipal Electric Energy Cooperative (CMEEC)[1] filed a complaint against Northeast Utilities (NU) and its subsidiaries, the Connecticut Light and Power Company (CL&P), Northeast Utilities Service Company, and Northeast Nuclear Energy Company (collectively, the NU companies).[2] The complaint seeks adjustments to certain provisions of nine unit sale contracts between CMEEC and CL&P as well as an order directing the NU companies to comply with certain provisions of the unit sale contracts. In the same document CMEEC has also moved for an expedited hearing on the matters raised in its complaint.

CMEEC states that it has purchased and is purchasing most of its power and energy resources from CL&P pursuant to take-or-pay life-of-unit contracts, including those which are the subject of the complaint. These contracts give CMEEC specified percentage entitlements in thirty CL&P generating units. It is further stated that under the life-of-unit contracts, CMEEC is obligated to pay its percentage share of all fixed and variable costs associated with the generating units covered by the contracts which are incurred by CL&P in accordance with prudent utility practice.

CMEEC states that its claims arise under both sections 205 and 206 of the Federal Power Act; the relief sought involves prospective modifications to various elements of the contracts as well as an order directing NU and its subsidiaries to comply with existing provisions of the contracts. CMEEC notes that the capacity costs it pays under the unit sale contracts include a return on CL&P's investment in the covered generating units. Pursuant to a settlement agreement in Docket No. ER82-300-000, accepted by letter order of August 26, 1982, the current allowable return on equity is set at 17 percent. According to CMEEC, this rate of return on equity is excessive and should be reduced in light of risk allocation under the contracts and current money market conditions. CMEEC also seeks modification of a contractual allowance for administrative and general expenses (A&G loader) which has been set at 40 percent of operation and maintenance (O&M) expense (excluding fuel). It is CMEEC's position that the 40 percent level is excessive and should be reduced to 32.78 percent to properly reflect the nature of the service being provided. CMEEC states that its requests that the NU companies accept adjustments to the return on equity and the A&G loader have been refused and that the contracts specifically permit CMEEC to pursue such changes under section 206 of the Federal Power Act.

CMEEC further alleges that the NU companies have not complied with all existing terms of the contracts. Specifically, CMEEC alleges that the capital structures underlying CL&P's charges to CMEEC include common equity components inconsistent with the terms of the contracts, and contrary to Commission policy; that NU companies have failed to supply CMEEC with accurate calculations of actual monthly O&M expenses; and that the NU companies have not made available to CMEEC all records and accounts necessary to verify the validity of charges billed to CMEEC under the contracts.

CMEEC contends that as a result of the foregoing, it is being forced to pay charges that are unjust, unreasonable, unduly discriminatory, and anticompetitive. It thus requests an investigation and hearing with regard to its allegations; issuance of an order reducing the return on equity and A&G loader percentage; an order requiring the calculation of common equity components consistent with the terms of the contracts (with refunds from the date of the complaint); and an order directing the NU companies to promptly supply CMEEC with accurate calculations of actual monthly O&M expenses as well as all accounts and records necessary to evaluate the charges billed to CMEEC under the contracts.

In its motion for an expedited hearing, CMEEC states that the allegedly excessive rates may impose irreparable harm to CMEEC, that the life-of-unit contracts require all parties to cooperate in expediting Commission consideration of proposed adjustments to the contracts, that it has already made its prepared direct testimony available, and that the issues raised by the complaint are limited in scope and number.

On May 9, 1983, CL&P filed an answer to CMEEC's complaint, a motion to dismiss as to each of the NU companies other than CL&P, and a motion to permit submission of additional proposed rate schedule changes as part of this proceeding. CL&P avers that the complaint should be dismissed as to the respondents other than CL&P because none of the other NU companies is a party to the life-of-unit contracts identified in the complaint and because CL&P is the only party having obligations to CMEEC under those contracts. CL&P agrees that CMEEC has properly presented its proposed contract adjustments to the Commission for consideration, but denies that the proposed adjustments to rate of return, the A&G loader, or the capital structure are required. In addition, CL&P denies that it has violated the contracts by failing to furnish or make available information for CMEEC to verify or evaluate the rates and charges.

In agreeing that a hearing is appropriate, CL&P also requests that the hearing consider additional changes to the life-of-unit contracts proposed by CL&P for prospective application. These

---

[1] CMEEC is a municipal joint-action agency which serves the power supply needs of its participants, the Cities of Groton and Norwich and the Borough of Jewett City, Connecticut.

[2] Notice of the complaint was published in the Federal Register, with comments due on or before May 13, 1983.

changes involve nuclear plant decommissioning charges, spent nuclear fuel disposal costs, unfunded deferred tax liability amortization period, regulatory expenses, working capital, construction work in progress, and contract language regarding failure of performance. CL&P states that it could propose certain of these changes unilaterally under section 205 of the Federal Power Act, but that it appears more efficient to consider all suggested changes concurrently and more fair to reduce the risk of increased charges to CMEEC until its complaint has been acted upon. According to CL&P, CMEEC is agreeable to this proposal.

With regard to the request for an expedited hearing, CL&P concurs and states that the parties have agreed upon a procedural schedule, to be submitted to the presiding judge.

On May 12, 1983, Phelps Dodge Copper Products Company (Phelps Dodge), a firm power customer of the City of Norwich Connecticut, filed a motion to intervene. Phelps Dodge does not request a hearing, but wishes to participate in this proceeding to the extent that its interests are affected.

On May 23, 1983, CMEEC filed an answer opposing CL&P's motion to dismiss as to the respondents other than CL&P, and clarifying its position on CL&P's motion to consider changes to the life-of-unit contracts proposed by CL&P. As to the former, CMEEC reasserts that CL&P is not the only party having obligations under the contracts, that information relevant to the case is generated by the other respondents, and that CMEEC's ability to make its case would be prejudiced by dismissal as to these parties. As to the latter, CMEEC indicates that it is generally agreeable to CL&P's proposed approach, although it reserves the right to challenge CL&P's contractual right to raise certain of its proposed changes before this Commission.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make Phelps Dodge a party to this proceeding.

CL&P's motion to dismiss the complaint insofar as it applies to the respondents other than itself will be denied. CMEEC notes that each of the NU companies is mentioned in the unit contracts and contends that performance of each may be relevant to CL&P performance under the contracts. Northeast Utilities Service Company performs service functions for CL&P and Northeast Nuclear Energy Company operates certain nuclear generating units which provide power for sale under these contract to CMEEC. Thus, these companies may supply data, calculations, accounts or records to CL&P which CMEEC alleges it does not receive timely or at all. In addition, dismissal of the complaint against these companies may prejudice CMEEC's ability to achieve such relief as may be justified. In the interest of narrowing the proceeding, however, we shall instruct the presiding judge to permit further argument or evidence of the question of whether each of the NU companies is a necessary party and we shall specifically authorize the judge to rule on this issue at the outset of this proceeding.

In order to resolve the matters raised in the complaint we shall initiate a hearing in this docket. Furthermore, CL&P's request that consideration of its proposed changes be heard pursuant to section 206 will be granted, subject to CMEEC's right to challenge the appropriateness of any change before this Commission. While we have no desire to impede a prompt resolution of this controversy, we decline to formally expedite the case at this time. Although CMEEC and CL&P have concurred in an expedited procedural schedule and have apparently commenced the exchange of data, neither the Commission's trial staff nor a presiding judge have had a similar opportunity to familiarize themselves with this case or to participate in the development of a workable time-table. We believe that the mechanics of scheduling this proceeding are best left to the discretion of the presiding judge.

The Commission orders:

(A) CL&P's motion to dismiss the complaint against respondents other than itself is denied, as discussed above.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the matters raised in CMEEC's complaint and CL&P's proposed contract changes.

(C) CL&P's motion to permit testimony on additional issues as specified in its response and to consider all issues in the same proceeding is granted, subject to CMEEC's right to challenge the apppropriateness of any such changes before the Commission.

(D) CMEEC's motion for an order directing an expedited hearing is denied.

(E) A presiding adminstrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately ten (10) days the date of this order in a hearing of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, for the purpose of establishing a procedural schedule for the consideration of all issued. The presiding judge is authorized to establish procedural dates and to rule on all motions as provided in the Commission's Rules of Practice and Procedure. The judge is specifically authorized to consider and rule on the question of whether each of NU companies is a necessary party to this case and a proper respondent to the complaint.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17221 Filed 6-24-83; 8:45 am.]

BILLING CODE 6717-01-M

[Docket No. QF83-294-000]

Delval Properties, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 22, 1983.

On May 23, 1983, Delval Properties, Inc., 839 East Germantown Pike, Norristown, Pennsylvania 19401, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Montgomery County, Pennsylvania. The primary energy source to the facility will be biomass, in the form of municipal and/or commercial solid waste. The electric power production capacity of the facility will be between two and six megawatts.

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. 83-17222 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-273-000]

El Paso Natural Gas Co.; Application

June 22, 1983.

Take notice that on April 13, 1983, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed at Docket No. CP83-273-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Reichhold Chemicals, Inc. (Reichhold), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that El Paso and Reichhold have entered into a transportation agreement dated April 1, 1983, providing for El Paso to receive up to 12,000 Mcf of natural gas per day on a best-efforts basis from Southern Union Gathering Company (Southern Union) in San Juan County, New Mexico (Kutz delivery point) and concurrently deliver such gas to Northwest Pipeline Corporation at a point in La Plata County, Colorado, at the Ignacio delivery point. It is asserted that the transportation agreement provides that Reichhold would pay El Paso for each Mcf received at the Kutz delivery point and delivered to Northwest at the Ignacio delivery point, El Paso's currently effective short haul charge as reflected from time to time on Sheet 1-D.2 of El Paso's FERC Gas Tariff, Volume No. 2. It is stated that the current short haul charge is 3.48 cents per Mcf

It is explained that the proposed transportation service would provide Reichhold with an economical supply of gas for use in its St. Helens, Oregon, ammonia plant. It is stated that Reichhold purchases the subject gas from Southern Union.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17223 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-321-000]

Florida Gas Transmission Co.; Application

June 22, 1983.

Take notice that on May 13, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83-321-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for Southern Natural Gas Company (Southern), of natural gas produced from Block 37, Vermilion Area, Offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes, pursuant to a gas transportation contract dated July 29, 1981, to transport up to 7.5 billion Btu of natural gas per day and redeliver said quantity, less Southern's *pro rata* share of compressor fuel and lost and vented gas, to Southern at the existing point of interconnection between Applicant and Southern in Washington Parish, Louisiana. Applicant asserts that it would receive the gas from Transcontinental Gas Pipe Line Corporation (Transco) for Southern's account at an existing interconnection of Applicant's and Transco's facilities in Vermilion Parish, Louisiana.

It is asserted that the transportation agreement would remain in full force and effect for a term of five years beginning on July 29, 1981, the effective date thereof, and continuing from year to year thereafter until cancelled by either party upon proper notice.

It is asserted that Southern would pay Applicant a facility charge of 11.0 cents per million Btu delivered at the point of delivery and a service charge of 3.8 cents per million Btu delivered at the point of delivery. It is stated that the proposed charge is based on Applicant's currently effective rates for its supply system transportation established in Applicant's settlement agreement in Docket No. RP81-84-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17224 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-305-000]

Miramar Hawaii; Application for Commission Certification of Qualifiying Status of a Cogeneration Facility

June 22, 1983.

On May 31, 1983, Miramar Hawaii, (Applicant), 2345 Kuhio Avenue, Honolulu, Hawaii 96815, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping cycle cogeneration facility is located at Applicant's hotel at the above address. The facility consists of a spark ignition engine. The Primary energy source to the facility is diesel oil. The electric power production capacity of the facility is 12 kilowatts. Insallation of the facility was schedule for completion June 1, 1983.

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. 83-17225 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-1-001]

Montana-Dakota Utilities Co.; Petition

June 22, 1983.

Take notice that on May 27, 1983,[1] Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP83-1-001, a petition pursuant to § 385.207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) requesting waiver of the requirements of § 157.211(b)(2) of the Commission's regulations so as to permit MDU to utilize the prior notice procedure of § 157.205 of the Commission's Regulations (18 CFR 157.205) to install on its transmission system such taps and related facilities needed to provide new retail service from its interstate pipeline, all as more fully set forth in its petition which is on file with the Commission and open to public inspection.

MDU states that the majority of its end-use customers are retail customers served off its integrated pipeline system at rates regulated by the regulatory commissions in Montana, North and South Dakota and Wyoming. However, MDU states that it has been informed that it cannot use its blanket authorization issued in Docket No. CP83-1-000 to construct and operate sales taps to attach retail customers because § 157.211(b) of the regulations does not provide MDU with the requisite authority to install new sales taps on its jurisdictional system to serve new retail customers since § 157.211(b) of the regulations requires that all gas delivered from such sales taps are to be "within the certificated entitlements of the customer." MDU asserts that as a pipeline, it has no certificated sales volumes with respect to MDU, as a distributor. As a result, MDU requests waiver of § 157.211(b)(2) of the regulations to permit MDU to construct and operate sales taps to attach new retail customers under the prior notice procedure under Order No. 234.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17226 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[1] The petition was initially tendered for filing on May 25, 1983; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until May 27, 1983; thus, filing was not completed until the latter date.

[Docket No. CP77-363-006]

National Fuel Gas Supply Corp.; Petition To Amend

June 22, 1983.

Take notice that on May 24, 1983, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in docket No. CP77-363-006 a petition, pursuant to Section 7(c) of the Natural Gas Act to amend the order issued February 8, 1980, in Docket No. CP77-363 pursuant to Section 311 of the Natural Gas Act of 1978 (NGPA) and Section 284.107(b) of the Commission's Regulations so as to issue a certificate of public convenience and necessity authorizing the continued transportation of natural gas for UGI Corporation (UGI) which originally commenced under Section 311(a)(1)(ii) of the NGPA and to add a new delivery point for redelivery of the volumes of natural gas transported for UGI, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

National Fuel asserts that the order issued February 8, 1980, in Docket No. CP77-363 authorized Columbia Gas Transmission Corporation (Columbia) and National Fuel to transport for a period of ten years up to 5,000 Mcf of natural gas per day, on an interruptible basis, for UGI pursuant to Section 311 (a)(1)(ii) of the NGPA. National Fuel adds that the aforementioned order found no compelling reason for acting under Section 7(c) of the Natural Gas Act even though Columbia and National Fuel had originally sought Section 7(c) certificate authorization.

National Fuel alleges that the terms of a transaction under Section 311 of the NGPA as specified in Part 284 of the Commission's Regulations are generally applicable to all services rendered pursuant to Section 311 nationwide and are not specifically tailored to a single transaction, so that the terms can only be changed during the life of the

transaction by a general rulemaking proceeding or by requesting an adjustment pursuant to Section 502 of the NGPA. It is submitted that short-term transactions, such as the two-year term contemplated by Section 311, do not contemplate changes in operating procedures; however, during longer term transactions, such as the instant ten-year transportation for UGI, the course of conduct and operating obligations are more susceptible to change and therefore lend themselves more readily to Section 7(c) authority under the Natural Gas Act.

National Fuel submits that certificate authorization pursuant to Section 7(c) of the Natural Gas Act is more appropriate in the instant situation, particularly in view of the longer term (ten years) nature of its service to UGI. National Fuel adds that the Commission policy regarding the choice between using Section 311 of the NGPA or Section 7(c) of the Natural Gas Act has changed since the date of authorization granted in Docket No. CP77-363 so that the choice of selecting Section 311 of the NGPA or Section 7(c) of the Natural Gas Act, where either section is applicable, is at the option of the pipeline. National Fuel submits that it prefers to perform the service under Section 7(c). In this regard, National Fuel states that its effective rates are subject to Commission review in Docket No. RP83-63-000 and thus the revenues associated with this service are subject to Commission action in that proceeding.

National Fuel asserts that the additional delivery point, located at an existing interconnection (Ellisburg, Pennsylvania) between the facilities of National Fuel and Penn-York Energy Corporation would enable UGI to store a portion of the volumes currently being transported for UGI by National Fuel and Columbia. National Fuel alleges that the proposed amendment would enable it to reduce its purchases of unnecessary gas supply from Columbia.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17227 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-351-000]

Northern Border Pipeline Co.; Application

June 22, 1983.

Take notice that on May 26, 1983, Northern Border Pipeline Company (Applicant), 224 South 108th Avenue, Omaha, Nebraska 68154, filed in Docket No. CP83-351-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of an existing tap facility to serve as an additional delivery point and the transportation of natural gas on behalf of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern Natural), for the account of the Great Plains Gasification Associates (Great Plains) and for permission and approval to abandon such facility and service, at the termination of such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to operate an existing 6-inch tee and side valve located in Mercer County, North Dakota, as a new delivery point (Hebron delivery point). Applicant states the Hebron delivery point would interconnect with the facilities of Great Plains. Applicant further states the Hebron delivery point would be utilized to deliver up to a maximum daily volume of 20,000 dt equivalent of natural gas purchased from Michigan Consolidated Gas Company (MichCon) to be used as start-up fuel for Great Plains' coal gasification plant located near Beulah, North Dakota.

Applicant proposes to charge the rate set forth from time to time in its existing Rate Schedule X-1 of Applicant's FERC Gas Tariff, Original Volume No. 2. Applicant further proposes to abandon the subject service on the earlier of (a) May 1, 1985, or (b) the date on which the Gas Sales Agreement between MichCon and Great Plains is terminated.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17228 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-347-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

June 22, 1983.

Take notice that on May 26, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-347-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon approximately 2 miles of 2-inch lateral line and appurtenant facilities, and the transportation of gas through said facilities under the authorization issued in Docket No. CP82-479-000 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 it proposes to abandon in place its Madison 2-inch pipline consisting of approximately 2.0 miles of 2-inch pipeline and appurtenant facilities in Greenwood County, Kansas, and to abandon the transportation of gas through these facilities. Applicant states that it also proposes to abandon and reclaim four meter settings located along this pipeline.

It is stated that the subject pipeline is no longer required as a part of Applicant's transmission system. Applicant indicates that the four domestic customers located along this pipeline have consented to termination of this service and that Applicant would reimburse each customer $1,090 to cover the installation of alternate fuel. Applicant estimates that the cost to reclaim the subject facilities would be $7,410 with a salvage value of $70.

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 § 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. 83-17279 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-366-000]

Northwest Pipeline Corp.; Request Under Blanket Authorization

June 22, 1983.

Take notice than on June 6, 1983, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP83-366-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest proposes to abandon and remove certain tap and measurement facilities located in Owyhee County, Idaho, under the authorization issued in Docket No. CP82-433-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is asserted that Northwest has been advised by Intermountain Gas Company that the measuring station identified as the Marion Rienke Tap is no longer needed.

Northwest, therefore, proposes to abandon facilities consisting of one 2-inch mainline tap, first stage regulation equipment and associated appurtenances located on Northwest's 16-inch Reno Lateral in Owyhee County, Idaho. Northwest states that the proposed abandonment would have no adverse effect on its system operations.

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. 83-17230 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-352-002]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

June 22, 1983.

Take notice that on May 31, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-352-002 a petition to amend the order issued July 10, 1981, in Docket No. CP79-352-001 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas volumes, in excess of its current authorization, for Southern Connecticut Gas Company (Southern Connecticut), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by Commission order issued July 10, 1981, in Docket No. CP79-352-001, to provide an interruptible transportation service for Southern Connecticut of up to 2,000 Mcf per day. Petitoner now requests authorization to exceed that quantity from time to time, as its own operating conditions permit and Southern Connecticut requests, in accordance with the interruptible transportation contract between Petitioner and Southern Connecticut.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17231 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-308-000]

Transcontinental Gas Pipe Line Corp.; Application

June 22, 1983.

Take notice that on May 3, 1983, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP83-308-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import from Canada at a point near Niagara Falls, New York, up to 75,000 Mcf of natural gas per day to be purchased from Sulpetro Limited (Sulpetro) of Calgary, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on January 27, 1983, the National Energy Board of Canada (NEB) issued its omnibus natural gas export decision which, *inter alia*, authorized Sulpetro to export gas to the United States under the terms of its December 11, 1980, contract with Transco. It is submitted that the authorized export point is Niagara Falls, Ontario, and the eight-year term of the export license commences with the

anticipated date of initial deliveries which is November 1, 1983.

Applicant hereby seeks authority from the Commission to import into the United States up to 75,000 Mcf of gas per day from November 1, 1983, through October 31, 1987, and to import a maximum quantity reduced by 15,000 Mcf per day each year thereafter until the expected cessation of the deliveries on October 31, 1991. Applicant states that the price of the gas to be imported is the international border price set from time to time by the NEB.

Applicant states that the instant proposal is a continuation of ongoing arrangements between Applicant and Sulpetro which, under present circumstances, involve the importation of up to 75,000 Mcf of gas per day by Applicant at Niagara Falls where Sulpetro causes the gas to be delivered to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for Applicant's account. Applicant states further that until the new pipeline facilities proposed by Niagara Interstate Pipeline System in Docket No. CP83-170-001 are constructed, the subject gas would continue to be transported through the existing facilities of Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1983, file with the Federal Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17232 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-285-000]

Uncle Ben's Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 22, 1983.

On May 10, 1983, Uncle Ben's Inc., (Applicant), 5610 Clinton Drive, Houston, Texas 77020, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On June 6, 1983, Applicant filed supplementary information regarding the facility.

The facility, located at the Applicant's address, consist of both a topping- and bottoming-cycle. The combined power production capacity of the facility will be 1.1 megawatts. The primary energy source to the facility will be biomass, in the form of rice hulls.

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. 83-17233 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-352-000]

United Gas Pipe Line Co. and Mississippi River Transmission Corp.; Application

June 22, 1983.

Take notice that on May 27, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124 (Applicants), filed in Docket No. CP83-352-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange arrangement between United and MRT, and leased compression, pipeline, tap, and the appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to abandon their exchange of gas under the gas exchange agreement (agreement) dated March 19, 1979. United proposes to abandon the leased compressor (Monroe III) along with various pipeline and appurtenant facilities, and MRT proposes to abandon a 6 inch tap and appurtenant facilities.

It is asserted that the agreement and facilities were necessary to enable United to take supplies in the Monroe Field which then exceeded its system's existing capacity by 8,000 Mcf of gas per day. However, Applicants state that recent and projected production decline in the Monroe Field area indicate there is no longer a need for this agreement or the facilities Applicants are proposing to abandon. Thus, Applicants agreed to cancel said agreement pursuant to a cancellation agreement dated December 9, 1982. Applicants assert the leased compressor would be returned to lessor.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17234 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-6-000 et al.]

Aluminum Co. of America et al.; Hearings, Electric Rates

In the matter of Rufus L. Edmisten, Attorney General of the State of North Carolina v. Aluminum Company of America, Tapoco, Inc., and Nantahala Power and Light Company; Docket Nos. EL83-6-000, EL82-774-000, EL82-829-000, EL83-209-000, EL83-219-000, and EL83-227-000; order setting complaint for investigation, denying motions, consolidating dockets, and granting intervention.

Issued: June 20, 1983.

On January 11, 1983, Rufus L. Edmisten, Attorney General of the State of North Carolina (Attorney General) filed a complaint against Aluminum Company of America (Alcoa), Tapoco, Inc. (Tapoco), and Nantahala Power and Light Company (Nantahala). The Attorney General alleges that pursuant to a proposed Tapoco-TVA Exchange Contract,[1] Tapoco has: transferred certain transmission and interconnection facilities which are part of its Tallassee Project without lawful authority; conveyed facilities subject to Commission jurisdiction within the meaning of section 203 of the Federal Power Act (FPA) without authority; and conveyed to TVA the right of first refusal to acquire its licensed Tallassee Project which could result in circumvention of the statutory requirements for transfer or relicensing of a hydroelectric project. In addition, the Attorney General alleges that the conveyance of the transmission and interconnection facilities impacts unfavorably on the public interest by precluding coordinated and integrated operations between Tapooc and Nantahala. The Attorney General requests that the Commission: (1) Issue an order requiring Tapoco either to abandon its proposed Tapoco-TVA Exchange Contract or seek necessary approval for the disposal of the interconnection and transmission facilities involved; (2) declare the right of first refusal to accquire the Tallassee Project to be a legal nullity; (3) investigate why Tapoco and Nantahala seek or acquiesce in abandonment of the interconnection between them; and (4) investigate whether Tapoco has violated the FPA in a manner that would warrant revocation of its license for the Tallassee Project.

Notice of the Attorney General's complaint was published in the Federal Register, with comments due on or before February 23, 1983. On February 15, 1983, North Carolina Electric Membership Corporation (NCEMC) and Haywood Electric Membership Corporation (Haywood) jointly filed a timely motion to intervene, together with motions for a hearing and consolidation, and related motions. The Town of Highlands, North Carolina (Highlands) also filed a timely motion to intervene and motion for a consolidated hearing on February 23, 1983.

Haywood is a wholesale customer of Nantahala and NCEMC is a statewide organization comprised of electric cooperatives in North Carolina, including Haywood. NCEMC is expected to become Haywood's sole power supplier in 1983, and to assume the rights and obligations under Haywood's power contract with Nantahala. Therefore, NCEMC and Haywood state that their interests will be directly affected by the Commission's resolution of the issues raised in this docket. NCEMC and Haywood support the Attorney General's contentions that Tapoco is attempting to convey rights in project works and jurisdictional facilities without Commission approval, and that such a conveyance would cancel the intercoordinated operations of Tapoco and Nantahala. In addition, NCEMC and Haywood allege that Nantahala's ability to provide adequate, reliable, and economical energy to its customers is dependent upon the inter-coordinated operations of Tapoco and Nantahala. Furthermore, NCEMC and Haywood allege that Alcoa [2] has entered into an initial agreement to sell Nantahala to a group of Nantahala's employees which may affect Nantahala's customers. Therefore, NCEMC and Haywood join in the Attorney General's request that the Commission investigate these matters and consolidate this docket with the ongoing consolidated proceedings in Docket Nos. ER82-774-000, ER82-829-000, ER83-209-000, ER83-219-000, ER83-227-000 (consolidated proceeding).[3]

Highlands, as a wholesale customer of Nantahala, also states that it is directly affected by the arrangements among Tapoco, TVA, and Nantahala. Highlands too supports the Attorney General's complaint and requests that this docket be consolidated with the ongoing proceedings.

On February 17, 1983, Alcoa and Tapoco jointly filed an answer to the Attorney General's complaint. Alcoa and Tapoco state that: (1) The issues raised in the complaint are no different than those raised by the Attorney General and other intervenors in Docket No. ER83-209-000; (2) the complaint represents an attempt to relitigate issues that have already been resolved by the Commission in Opinion Nos. 139 (18 FERC ¶61,152) and 139-A (20 FERC ¶61,430); (3) the arrangements between Tapoco, Alcoa, and TVA do not affect Nantahala's customers and therefore they do not have standing to litigate matters concerning those arrangements; and (4) the Commission has already determined that Alcoa is not a necessary party in these matters. Therefore, Alcoa and Tapoco request that the Commission dismiss the complaint with prejudice.

Nantahala also filed a timely answer to the Attorney General's complaint. Nantahala states that the complaint does not contain any allegations of fact regarding Nantahala. Rather, Nantahala contends that it has been named a respondent merely in an effort to create a vehicle by which the Attorney General may reach Tapoco or Alcoa. Nantahala denies that the effect of the new Nantahala agreement (Docket No. ER83-219-000) and the expiration of the preceeding agreements constitutes a discontinuation of a connection with Tapoco or TVA. As to the allegations regarding a transfer of project works without lawful authority, Nantahala asserts that any such arrangements are the subject of contracts and agreements between Tapoco and TVA, having nothing to do with Nantahala. Furthermore, Nantahala states that the Attorney General's allegations are the same arguments which were advanced in the proceedings underlying Opinion Nos. 139 and 139-A.

Alcoa and Tapoco filed joint answers to the motions of NCEMC and Haywood, and the motions of Highlands on February 28, 1983, and March 9, 1983, respectively. Alcoa and Tapoco incorporate by reference their response to the Attorney General's complaint and state that all matters raised by NCEMC, Haywood, Highlands can be adequately addressed in the consolidated proceeding to which all are parties.

---

[1] Docket No. ER83-209-000. This contract, along with a contract filed by Nantahala in Docket No. ER83-219-000, was set for hearing and consolidated with Docket Nos. ER82-774-000 and ER82-829-000 by order of February 18, 1983 [22 FERC ¶ 61,209].

[2] Alcoa is the parent company of both Nantahala and Tapoco.

[3] NCEMC and Haywood are parties to the consolidated proceeding and state that the issues raised in this docket contain issues of law and fact which are similar to the issues presented in the ongoing case.

They further contend that inasmuch as the complaint has not been set for hearing, a grant of intervention or consolidation would be premature, and they request that the motions for intervention, hearing, and consolidation be denied.

Discussion

As noted, NCEMC, Haywood, and Highlands filed timely motions to intervene in Docket No. EL83-6-000. Alcoa and Tapoco challenge the standing of the movants, asserting that none of these movants is a customer of Tapoco's and none has an interest in the proposed agreement between Tapoco and TVA. They further contend that inasmuch as there is no proceeding yet, granting intervention would be premature. We disagree. First, the Commission traditionally grants or notes interventions at the same time it initially addresses a filing, whether by initiating a hearing, or otherwise.[4] Next, we have already found, in our order issued on February 18, 1983, in the consolidated proceeding, that Highlands, NCEMC, and Haywood may have an interest in the proposed Tapoco-TVA agreement (Docket No. ER83-209-000) as well as the Nantahala-TVA agreement (Docket No. ER83-219-000) and that they may be directly affected by Commission action in those dockets. As a result, they were permitted to intervene in the proceedings in those dockets. Inasmuch as the Attorney General's complaint specifically involves the proposed Tapoco-TVA and the Nantahala-TVA agreements, we believe that Highlands, NCEMC, and Haywood also may have an interest in the allegations presented in this docket. Accordingly, each of the motions to intervene will be granted.

We do not believe, as we stated in our order of February 18, 1983, that Alcoa is a necessary party in matters arising out the proposed Tapoco-TVA or Nantahala-TVA agreements. Alcoa is not a party to those agreements. In addition, the Attorney General's complaint was filed pursuant to section 306 of the FPA. Section 306 provides for complaints directed at public utilities and licensees. Alcoa is neither a public utility [5] nor a licensee. Therefore, we shall dismiss the complaint insofar as Alcoa is concerned.

We shall deny the motion to dismiss the complaint insofar as Tapoco and Nantahala are concerned. At the center of the Attorney General's complaint are the proposed Tapoco-TVA and Nantahala-TVA agreements. Although these agreements have already been filed with the Commission and have been set for consolidated hearing, several issues have been raised in the Attorney General's complaint which the consolidated proceeding may not encompass. These issues include the alleged transfer of jurisdictional facilities without approval and the conveyance of a right of first refusal to TVA to acquire a licensed hydroelectric project. We believe that these matters may warrant further investigation.

Some of the issues raised by the Attorney General's complaint relate to violations of Part I of the EPA and non-rate provisions of the Act such as section 203. We have previously addressed allegations concerning Part I violations by Tapoco and Nantahala in our order of November 22, 1982. In that order, issued in Docket Nos. ER82-774-000 and ER82-829-000, we instructed the presiding judge to make a preliminary recommendation as to whether further proceedings are warranted under sections 19 and 20 of the FPA. [21 FERC at 61,317]. Also, in our order of February 18, 1983, issued in Docket Nos. ER82-774-000, *et al.*, we ordered an inquiry into the appropriateness of further proceedings under sections 19 and 20. (mimeo at 12.). Therefore, to the extent that the issues raised by the Attorney General's complaint relate to violations of Part I of section 203 of the FPA, we shall instruct the presiding judge in the consolidated proceeding to consider those issues in making the recommendation to the Commission as to the appropriateness of further action. However, insofar as the issues raised by the Attorney General relate directly to the proposed rate schedules at issue in the consolidated proceeding, we deem it appropriate to expand the scope of the pending hearing to include those issues. Accordingly, we shall consolidate Docket No. EL83-6-000 with the ongoing proceeding.

Concerning the allegations that the Attorney General's complaint is an attempt to relitigate issues already resolved by the Commission, we note two points. First, the recently proposed agreements which are the underlying basis for this complaint are not the same as those which were the subject of the proceedings which culminated in Opinion Nos. 139 and 139-A. Second, we have previously advised the presiding judge in the consolidated proceeding to take necessary measures to avoid unnecessary relitigation of issues. [21 FERC ¶61,112].

The Commission Orders:

(A) All motions not specifically granted are hereby denied.

(B) The motions to dismiss the Attorney General's complaint are hereby denied, except as noted in paragraph (C) below.

(C) The motions to dismiss the Attorney General's complaint insofar as it applies to Alcoa are hereby granted.

(D) The interventions of the North Carolina Electric Membership Corporation, the Haywood Electric Membership Corporation, and the Town of Highlands are hereby granted subject to the Commission's Rules of Practice and Procedure.

(E) Docket No. EL83-6-000 is consolidated with the ongoing proceedings in Docket Nos. ER82-774-000, ER82-829-000, ER83-209-000, ER83-219-000, and ER83-227-000 for purposes of hearing and decision.

(F) The scope of the pending case in Docket Nos. ER82-774-000, ER82-829-000, ER 83-209-000, ER83-219-000, and ER83-227-000 is hereby expanded as follows. As noted in the body of this order, the presiding judge, in considering and recommending to the Commission the appropriateness of further action under Part I of the Federal Power Act, particularly sections 19 and 20, shall also consider those matters raised by the Attorney General's complaint which relate to violations of Part I or section 203 of the FPA. Insofar as the issues presented in the complaint relate directly to the question of whether Nantahala's and Tapoco's filed rate schedules are just reasonable, and non-discriminatory, these matters should be addressed in the pending hearing.

(G) The administrative law judge designated to preside in Docket Nos. ER82-774-000, *et al.*, shall convene a conference for purposes of determining the procedures best suited for this consolidated proceeding.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17257 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[4] In addition, we note that Rule 214 of our Rules of Practice and Procedure provides that intervention is automatic if the motion to intervene is timely and is not opposed within 15 days.

[5] In an order issued on November 22, 1978, in Docket Nos. E-7398, EL78-18, and ER79-828 [5 FERC ¶61,133 at 61,323], we found that Alcoa is not a public utility within the meaning of the FPA.

[Docket No. ID-2030-001]

Wesley W. Von Schack; Application

June 22, 1983.

The filing individual submits the following:

Take notice that on June 10, 1983, Wesley W. Von Schack filed an application pursuant to Section 305(b) of The Federal Power Act to hold the following positions:

Vice President Finance—Central Vermont Public Service Corporation
Vice President Finance—Connecticut Valley Electric Company Inc.
Director and Vice President—Central Vermont Public Service Corporation—E. Barnet Hydroelectric, Inc.
Director and Vice President—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.

Any person desiring to be heard or to protest said filing should file a motin to intervene or protest with the Federal Energy Regulatory Commssion, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the 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 July 7, 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. 83-17217 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-297-000]

Wildwood Power Station Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 22, 1983.

On May 25, 1983, Wildwood Power Station Inc., 500 Ridgemont Drive, Gibsonia, Pennsylvania 15044, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in West Deer Township, Pennsylvania. The primary energy source will be biomass in the form of wood chips waste. The electric power production capacity of the facility will be 16,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17218 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7221-000, et al.]

Hydroelectric Applications (Muskingum River Hydro Associates et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Preliminary Permit.

b. Project No.: 7221-000.

c. Date Filed: April 13, 1983.

d. Applicant: Muskingum River Hydro Associates.

e. Name of Project: Philo Lock and Dam No. 9.

f. Location: On the Muskingum River, in Muskingum County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: David Coombe, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment Date: August 8, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Ohio Department of Natural Resources' Philo Lock and Dam No. 9; (2) an existing reservoir with a crest elevation of 672.12 feet m.s.l.; (3) a new powerhouse containing two generating units having a total rated capacity of between 2.5 and 2.9 MW; (4) an existing 13.8–kV transmission line owned by the American Electric Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be between 25 and 30 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the American Electric Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000.

2a. Type of Application: Preliminary Permit.

b. Project No: 7245–000.

c. Date Filed: April 26, 1983.

d. Applicant: Anthony L. Bishop.

e. Name of Project: Thompson Creek.

f. Location: On Thompson Creek, a tributary to the Klamath River, near Seiad Valley, in Siskiyou County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Frank M. Yannone, P.O. Box 593, Seiad Valley, California 96086.

i. Comment Date: August 5, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 4-foot-high, 26-foot-long, diversion structure at elevation 1420 feet; (2) a 5,500-foot-long, 6-foot by 4-foot diversion conduit; (3) an 800-foot-long, 36-inch diameter steel penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 400 kW and an average annual generation of 1.44 GWh; and (5) 1,000 feet of 12.5–kV transmission line. Project power would be sold to Pacific Power and Light Company. The project would be located within the Klamath National Forest.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $50,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

3a. Type of Application: New Major License.

b. Project No.: 3223–001.

c. Date Filed: January 5, 1982.

d. Applicant: Sacramento Municipal Utility District, Northern California Power Agency and the Cities of

Anaheim, Azusa, Banning, Colton and Riverside, California.

e. Name of Project: Rock Creek-Cresta.

f. Location: On the North Fork Feather River in the Counties of Plumas, Butte, Yuba and Sutter, California.

g. Filed Pursuant to: The Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John J. Mattimoe, Chief Engineer, Sacramento Municipal Utility District, P.O. Box 15830, Sacramento, California 95813; and Frances E. Francis Esq., Spiegel and McDiarmid, Suite 312, 2600 Virginia Ave., NW., Washington, D.C. 20037.

i. Comment Date: July 21, 1983.

j. Competing Application: Project No. 1962–000 Dated Filed: 9/28/79.

k. Description of Project: The existing Rock Creek-Cresta Project with a total installed capacity of 180,800 kW consists of:

A. Rock Creek Development comprising: (1) The Rock Creek Reservoir with a gross storage capacity of 4,400 acre-feet and surface area of 118 acres at elevation 2,216.2 feet; (2) the Rock Creek Dam, a concrete gravity overflow structure, 126 feet high (from stream bed to the top of spillway gates), with a crest elevation of 2,230.2 feet and crest length of 567 feet; (3) a main spillway at elevation 2,188.2 feet containing two 124-foot-wide bays, controlled by hydraulically operated drum gates; (4) a 22.5-foot-wide supplementary spillway at elevation 2,210.2 feet, located to the west of the drum gates, controlled by a radial gate; (5) an intake structure within the reservoir about 100 feet upstream of the dam near the western abutment; (6) a 25/19-foot diameter, 34,110-foot-long tunnel; (7) a surge chamber; (8) two 12/9.75-foot-diameter penstocks, 906 and 938 feet long; (9) a powerhouse containing two generating units with total installed capacity of 113,400 kW; and (10) a switchyard, adjacent to the powerhouse, containing two 13.8/230-kV transformer units.

B. Cresta Development comprising: (1) the Cresta Reservoir with a gross storage capacity of 4,140 acre-feet and a surface area of 95 acres at elevation 1,661.2 feet; (2) the Cresta Dam, a concrete gravity overflow structure, 114 feet high (from stream bed to the top of spillway gates) with a crest elevation of 1,690.2 feet and crest length of 377.4 feet; (3) a main spillway at elevation 1,653.2 feet containing two 124-foot-wide bays, controlled by hydraulically operated drum gates; (4) a 22.5-foot-wide supplementary spillway at elevation 1,666.2 feet, located to the east of the drum gates, controlled by a radial gate; (5) an intake structure within the reservoir, about 100 feet upstream of the dam near the eastern abutment; (6) a 26/19-foot-diameter, 21,080-foot-long tunnel; (7) a surge chamber; (8) two 12-foot-diameter penstocks, 800 and 775 feet long; (9) a powerhouse containing two generating units with a total installed capacity of 67,400 kW; and (10) a switchyard adjacent to the powerhouse containing two 11.5/230-kV transformer units.

C. Two 230-kV transmission lines, Rock-Rio Oso Nos. 1 and 2, each about 72 miles long, extending from Rock Creek Switchyard to Rio Oso Substation with Line No. 2 making a 1.4 mile loop into and out of Cresta Switchyard.

Applicant proposes to increase the installed capacity of the project by approximately 36 percent in the following manner:

A. Rock Creek Development: (1) Modifying the existing penstock rocktrap to accommodate greater bed volume; (2) adding a 10.5-foot-diameter, 500-foot-long branch penstock to the existing eastern penstock; (3) constructing a new powerhoue, containing a single generating unit with a rated capacity of 45,000 kW, adjacent to the existing powerhouse; (4) contructing a new single unit fishwater release powerhouse, with a rated capacity of 720 kW, at the existing Rock Creek Dam; and (5) constructing/modifying appurtenant facilities.

B. Cresta Development: (1) Modifying the existing penstock rocktrap to accommodate greater bed volume; (2) adding a 12-foot-diameter, 340-foot-long branch penstock to the existing southern penstock; (3) constructing a new powerhouse, containing a single generating unit with a rated capacity of 20,000 kW, adjacent to the existing powerhouse; (4) constructing a new single unit fishwater release powerhouse, with a rated capacity of 360 kW, at the existing Cresta Dam; and (5) constructing/modifying appurtenant facilities.

Applicant estimates the cost of the proposed modifications at $73.3 million. Applicant would utilize the project energy to meet the load demands of its service area.

l. This notice also consists of the following standard paragraphs: A3, B & C.

4a. Type of Application: Preliminary Permit.

b. Project No: 7160–000.

c. Date Filed: March 21, 1983.

d. Applicant: Arkansas Department of Parks and Recreation.

e. Name of Project: Mammoth Spring:

f. Location: Spring River, Fulton County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard Davies, Director, Arkansas State Parks, One Capitol Mall, Little Rock, Arkansas 72201.

i. Comment Date: August 8, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Arkansas State Park Mammoth Spring Dam, an earthfill and limestone structure 110 feet long and 13.4 feet high; (2) a small impoundment covering 9.5 acres at an elevation of 502.5 m.s.l.; (3) a small intake with a 10–foot-long stone and concrete penstock; (4) a powerhouse 25 feet square containing one 440-kW turbine/generator unit designed for a head of 15.5 feet; (5) a 5–kV transmission line 600 feet long; and (6) appurtenant facilities.

k. Purpose of Project: The average annual generation of 1.8 million kWh would be sold to the Arkansas Power and Light Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $32,500.

5a. Type of Application: Preliminary Permit.

b. Project No: 6218–001.

c. Date Filed: April 7, 1983.

d. Applicant: Forrest Bigger and Delmer Wagoner.

e. Name of Project: Emigrant Dam.

f. Location: Jackson County, Oregon; Emigrant Creek.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Delmer Wagoner, 328 Pine Grove Rd., Rogue River, Oregon 97537.

i. Comment Date: August 8, 1983.

j. Description of Project: The proposed project would consist of a 2.4-MW powerhouse located adjacent to the outlet works of the U.S. Bureau of Reclamation's existing Emigrant Dam and an 800-foot-long transmission line

connecting with an existing transmission line. The Emigrant Dam is operated for irrigation by the Talent Irrigation District. No new road would be required for conducting the studies. A preliminary permit does not authoroze construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project.

k. Purpose of Project: The estimated annual, 18,396 MWh produced by the project would be sold to the Pacific Power & Light Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

6a. Type of Application: Application for License (Over 5MW).

b. Project No: 3560–001.

c. Date Filed: April 18, 1983.

d. Applicant: North Unit Irrigation District.

e. Name of Project: Wickiup Power.

f. Location: At the existing Wickiup Dam and Reservoir on the Deschutes River in Deschutes County, Oregon, on United States lands administered by the U.S. Bureau of Reclamation.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Robert Wagner, Manager, North Unit Irrigation District, 2024 NW Beech Street, Madras, Oregon 97741.

i. Comment Date: August 18, 1983.

j. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's Wickiup Dam and Reservoir and would consist of: (1) Bifurcations on the two existing outlet conduits; (2) two 96-inch-diameter steel penstocks 67 and 79 feet long converging through a wye into; (3) a 120-inch-diameter, 21-foot-long steel penstock; (4) a powerhouse at the toe of the dam housing a turbine genertor with a capacity of 7.0 MW and an average annual output of 26.1 Gwh; (5) a switchyard neart the powerhouse; and (6) a 38-foot-wide, 90-foot-long reinforced concrete tailrace with a maximum tailwater elevation of 4262 feet. An existng 24.7–kV, 9.1-mile-long single-phase distribution line owned by Midstate Electrical Cooperative that provides service to the existing valvehouse would be upgraded to three-phase to connect the project with the power grid. Based on the projected bid date of July, 1985, the Applicant estimates total project costs to be $13,015,000. This estimate includes funds for the repair and extension of the boat launch ramp at the southeast end of the dam and enlargement of the parking area.

k. Purpose of Project: The project would generate electrical energy from the head created by the existing dam in combination with the flow of water released for irrigation purposes. Applicant states that Pacific Power and Light has expressed an interest in purchasing project output.

l. This notice also consists of the following standard paragraphs: A2, B, and C.

7a. Type of Application: Exemption (Under 5 MW).

b. Project No: 4542–002.

c. Date Filed: May 10, 1983.

d. Applicant: Boston Felt Company.

e. Name of Project: Boston Felt Project.

f. Location: On the Salmon Falls River in Strafford County, New Hampshire.

g. Filed Pursusnt to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Sewell T. Wilson, Boston Felt Company, P.O. Box 258, 1 Mill Street, E. Rochester, New Hampshire 03867.

i. Comment Date: July 25, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing 150-foot-long and 10-foot-high wooden frame dam; (2) a reservair with a storage capacity of 232 acre-feet; (3) a new forebay and trashracks; (4) an existing 56-inch-diameter and 7-foot-long penstock; (5) a new powerhouse with an installed capacity of 150 kW; (6) a 150-foot-long transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 750,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

8a. Type of Application: Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity.

b. Project No: 6637–000.

c. Date Filed: August 24, 1982 and supplemented on May 9, 1983.

d. Applicant: Toledo Edison Company.

e. Name of Project: Auglaize Hydro Project.

f. Location: Defiance and Paulding Counties, Ohio on the Auglaize River.

g. Filed Pursuant to: Section 408, Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. David A. Nelson, Vice President, Administrative Services, Toledo Edison Company, Edison Plaza, 300 Madison Avenue, Toledo, Ohio 43652.

i. Comment Date: July 22, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 23-foot high and 375-foot long; (2) a reservoir with an estimated storage capacity of 850 acre-feet; (3) a powerhouse located on the south bank of the river; (4) transmission lines; and (5) appurtenant facilities. The Applicant estimates the capacity of the project would be 4950 kW with an average annual generation of 16.1 GWh. All power generated would be sold to Ohio Power Company.

k. Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

9a. Type of Application: Major License (under 5 MW).

b. Project No: 6689–000.

c. Date Filed: October 7, 1982.

d. Applicant: Penacook Hydro Associates.

e. Name of Project: Penacook Upper Falls Project.

f. Location: On the Contoocook River in Merrimack County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Thomas A. Tarpey, Penacook Hydro Associates, 110 Tremont Street, Boston, Massachusetts 02108, or David B. Ward, P.C., Farmer, McGuinn, Flood, Bechtel & Ward, 100 Potomac Street, NW., Suite 402, Washington, D.C. 20007.

i. Comment Date: July 27, 1983.

j. Competing Application: Project No. 3240–001; Date Filed: June 28, 1982.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) A new concrete spillway built on the remains of the existing dam. The resulting structure would be 187.0 feet long and 21.0 feet high; (2) sixteen proposed gates in the spillway, six operable timber gates, 9.5 feet wide and 15.5 feet high, eight fixed timber stoplog gates, and two operable (ice) gates 12.0 feet wide and 3.5 feet high; (3) a reservoir having a normal water surface elevation of 306 feet m.s.l., a surface area of 11.4 acres, with negligible storage; (4) a proposed tailrace 350.0 feet long and having an average width of 47.0 feet; (5) a proposed powerhouse 81.0 feet long and 44.0 feet wide containing a single generating unit with an installed

capacity of 2,800 kW; (6) proposed transmission lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7.5 million kWh.

l. Purpose of Project: All project energy would be sold to a member utility of the New England Power Pool.

m. This notice also consists of the following standard paragraphs: A3, B, C and D1.

10a. Type of Application: Exemption from Licensing.

b. Project No.: 6987-000.

c. Date Filed: January 10, 1983.

d. Applicant: Roy F. Fulton.

e. Name of Project: North Fork Yager Creek Hydroelectric Project.

f. Location: On North Fork Yager Creek, near Bridgeville, in Humboldt County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. Roy F. Fulton, Route 2, Box 33A, Eureka, California 95501.

i. Comment Date: July 27, 1983.

j. Competing Application: Project No. 6290. Application filed May 3, 1982. The notice of the application was issued on June 30, 1982, and expired on September 13, 1982.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure; (2) a 60-inch-diameter, 1,000-foot-long steel penstock; (3) a powerhouse to contain one generating unit with a rated capacity of 1,610 kW; and (4) a 0.5-mile-long, 115-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy production at 11.9 million kWh which would be sold to the PG&E.

l. This notice also consists of the following standard paragraphs: A1, B, C, & D3a.

11a. Type of Application: Constructed Major License (Less than 5 MW).

b. Project No.: 7000-000.

c. Date Filed: January 13, 1983.

d. Applicant: Newton Falls Paper Mill, Inc.

e. Name of Project: Newton Falls.

f. Location: East Branch of the Oswegatchie River in St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. William S. Hunter, Vice President—Engineering, Newton Falls Paper Mill, Inc., P.O. Box 253, Newton Falls, New York 13666.

i. Comment Date: August 12, 1983.

j. Description of Project: The Newton Falls Project is currently operating and no change in operations or facilities is proposed. The existing project includes two hydroelectric developments. The upper development consists of: (1) A 600-foot-long, 40-foot-high, concrete gravity dam with 3-foot-high flashboards owned by the Applicant; (2) a 650 acre surface area, 5930 acre-foot gross storage capacity reservoir at 1,424 M.S.L.; (3) a 9-foot-diameter, 1200-foot-long wood stave penstock; (4) a 150,000 gallon steel surge tank; (5) a 49 foot-by-26 foot reinforced concrete powerhouse containing; (6) 3 turbine/generator units with ratings of 340 kW, 600 kW, and 600 kW, operating under a head of 46 feet; (7) a 35-foot-wide, 250-foot-long tailrace; (8) a 375-foot-long, 1925-kV transmission line; and (9) appurtenant facilities. The lower development consists of: (1) a 350-foot-long, 25-foot-high, concrete gravity dam with 3-foot-high flashboards owned by the Applicant; (2) a 9 acre surface area, 115 acre-foot gross storage capacity reservoir at 1376.5 M.S.L.; (3) a 20-foot-wide, 15-foot-high intake structure; (4) a 40 foot-by-60 foot reinforced concrete powerhouse containing; (5) 1 turbine/generator unit with a rated capacity of 680 kW, operating under a head of 22 feet; (6) a 30-foot-wide, 200-foot-long tailrace; (7) a 2300-foot-long, 850-kV transmission line; and (8) appurtenant facilities. The total average annual energy production is 9,460 MWh.

k. Purpose of Project: All power produced by this project is utilized by the Newton Falls Paper Mill.

l. This notice also consists of the following standard paragraphs: A2, B, C, and D1.

12a. Type of Application: Preliminary Permit.

b. Project No: 7091-000.

c. Date Filed: February 22, 1983, and revised on May 9, 1983.

d. Applicant: Baltic Mill Associates, Limited Partnership.

e. Name of Project: Baltic Waterpower Project.

f. Location: On the Shetucket River, in New London County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Albert F. Delaney, Jr., Ten Prospect Street, Hartford, Connecticut 06103.

i. Comment Date: August 15, 1983.

j. Description of Project: The project would consist of: (1) A reconstructed dam approximately 30 feet high and 500 feet in length consisting of a rebuilt section and a new replacement section; (2) a reservoir of approximately 500 acres with a useful storage capacity of 2,000 acre-feet, and normal water surface elevation estimated to be 100.0 feet NGVD; (3) an existing intake structure and existing open channel power canal with cut and fitted granite walls approximately 100 feet wide and 1,000 feet in length; (4) an existing powerhouse constructed of a concrete slab and cut granite walls approximately 50 feet wide and 100 feet in length which will be retrofitted to accommodate new turbines and generating equipment with a proposed installed capacity of approximately 2,500 kW; (5) an existing open tailrace approximately 100 feet wide and 1,500 feet in length; (6) a proposed transmission line estimated to be 12,500 volts and approximately 500 feet in length; and (7) appurtenant facilities. Applicant estimates that the average annual energy output would be 9,200,000 kWh.

k. Purpose of Project: The most likely market for the energy produced at the proposed project would be New England public utilities.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time the Applicant would perform studies to determine the feasibility of the project and, if feasible, prepare an application for FERC license. Applicant estimates the cost of the these studies would be $60,000.

13a. Type of Application: Preliminary Permit.

b. Project No: 7123-000.l

c. Date Filed: March 7, 1983.

d. Applicant: W.B. DeOrero and R.J. McLaughlin.

e. Name of Project: Silver Lake Ditch.

f. Location: Boulder Creek in the City of Boulder, Colorado.

d. Applicant: Silver Lake Ditch.

e. Name of Project: W. B. DeOreo and R. J. McLaughlin.

f. Location: Silver Lake Ditch.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: William B. DeOreo, 3030 15th Street, Boulder, Colorado 80302.

i. Comment Date: August 18, 1983.

j. Description of Project: The proposed project would consist of: (1) A proposed headgate located on the Silver Lake Ditch; (2) proposed 1,500-foot-long, 12-15-inch-diameter penstock; (3) a proposed powerhouse containing one generator unit with a capacity of 125 kW; (4) a short tailwater canal; (5) a proposed 50-foot-long transmission line; and (6) appurtenant facilities. The estimated annual energy would range

from 250 to 750 MWh, depending on water availability.

k. Purpose of Project: Project energy will be sold to the Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $2,500.

14a. Type of Application: Small Conduit Exemption.

b. Project No: 7147-000.

c. Date Filed: March 15, 1983.

d. Applicant: City of Oceanside, California.

e. Name of Project: San Francisco Peak Power Plant.

f. Location: On the Tri-Agencies Pipeline, adjacent to the San Francisco Peak Reservoir in San Diego County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act [16 U.S.C. 823(a)].

h. Contact Person: Mr. Richard Rafanovic, City Engineer, City of Oceanside, 320 N. Horne, Oceanside, California 92054.

i. Comment Date: July 25, 1983.

j. Description of Project: The proposed project would consist of: (1) A diversion from the pipeline upstream of a pressure control facility; (2) a powerhouse containing a turbine generator with a rated capacity of 90 kW and an average annual output of 532,000 kWh; and (3) a return to the distribution system downstream of the control facility.

k. Purpose of Project: The project purpose is to convert into electrical energy the hydraulic energy currently being dissipated through throttling valves.

l. This notice also consists of the following standard paragraphs: B, C, and D3b.

15a. Type of Application: Preliminary Permit.

b. Project No: 7222-000.

c. Date Filed: April 13, 1983.

d. Applicant: Muskingum River Hydro Associates.

e. Name of Project: Rokeby Lock and Dam No. 8.

f. Location: On the Muskingum River, in Morgan County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: David Coombe, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment Date: August 15, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Ohio Department of Natural Resources' Rokeby Lock and Dam No. 8; (2) an existing reservoir with a crest elevation of 650.15 feet m.s.l.; (3) a new powerhouse containing two generating units having a total rated capacity of between 4.2 and 5.0 MW; (4) an existing 13.8-kV transmission line owned by the American Electric Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be between 25 and 30 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Tennessee Valley Authority.

l. This notice also consists of the following standard paragraphs: A4a, A4c, b, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000.

16a. Type of Application: Preliminary Permit.

b. Project No: 7230-000.

c. Date Filed: 4/18/83.

d. Applicant: Birch Creek Hydro, Inc.

e. Name of Project: Lone Pine Creek Water Power.

f. Location: On Lone Pine Creek, within Inyo National Forest, and Bureau of Land Management lands, in Inyo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: K. Thomas Miller, Chairman, Birch Creek Hydro, Inc., 2210 Wilshire Blvd., #789, Santa Monica, California 90403.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would consist of: (1) A reservoir at an elevation of 6,800 feet and having a gross storage capacity of 70 acre-feet; (2) a 20-foot-high diversion structure; (3) a 3-foot-diameter, 25,000-foot-long penstock; (4) a powerhouse at elevation 5,200 feet containing a generating unit with a rated capacity of 2,740 kW; and (5) a 4.75-mile-long transmission line. The Applicant estimates a 16.8 million kWh average annual energy production. A preliminary permit, if issued, does not authorize construction. The Applicant has requested a 36-month permit in which to conduct feasibility studies and prepare a license application at a cost of $175,000.00.

k. Purpose of Project: Power would be sold to local utilities.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, D2.

17a. Type of Application: Preliminary Permit.

b. Project No. 7267-000.

c. Date Filed: May 6, 1983.

d. Applicant: Joseph M. Keating.

e. Name of Project: Tungstar.

f. Location: On Pine and Morgan Creeks, near Bishop, in Inyo County, California, and affecting Inyo National Forest lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high rock-and-mortar diversion structure on Pine Creek at elevation 7,900 feet; (2) a 5-foot-high rock-and-mortar diversion structure on Morgan Creek at elevation 7,885 feet; (3) a 1,100-foot-long, 24-inch-diameter steel pipe; (4) a 350-foot-long, 24-inch-diameter steel pipe; (5) a 3,600-foot-long, 36-inch-diameter steel penstock; (6) a powerhouse at elevation 7,375 feet containing one generating unit rated at 1,050 kW; and (7) a 500-foot-long transmission line. The average annual energy generation is estimated to be 6 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a 12-month permit during which time it would conduct engineering, environmental, and economic studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost is estimated to be $42,000.

k. Purpose of Project: Power would be sold to Southern California Edison Company.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

18a. Type of Application: Preliminary Permit.

b. Project No. 7280–000.
c. Date Filed: May 16, 1983.
d. Applicant: Richard V. Williamson.
e. Name of Project: Big Canyon Creek.
f. Location: On Big Canyon Creek, near Mt. Shasta, in Siskiyou County, California.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Richard V. Williamson, 535 N Street, Eureka, California 95501.
i. Comment Date: August 16, 1983.
j. Description of Project: The proposed run-of-river project would consist of: (1) A 7-foot-high, 18-foot-long, diversion structure at elevation 3780 feet; (2) a 5,400-foot-long, 10-inch diameter penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 100 kW and an average annual generation of 864 MWh; and (4) 200 feet of 60-kV transmission line. Project power would be sold to Pacific Gas and Electric Company. The project would be located entirely within the Shasta National Forest.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 30-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $11,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, D2.

19a. Type of Application: Preliminary Permit.
b. Project No: 7295–000.
c. Dated Filed: May 18, 1983.
d. Applicant: F & T Energy Corporation.
e. Name of Project: Mississippi River Lock and Dam No. 24.
f. Location: Pike County, Missouri.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, Louisiana 70896.
i. Comment Date: August 19, 1983.
j. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Mississippi Lock and Dam No. 24 and consist of: (1) A proposed powerhouse which will contain 2 generating units, each rated at 18 MW for a total installed capacity of 36 MW; and (2) appurtenant facilities. The Applicant estimates the average annual energy generation to be 175 GWh. The Applicant also estimates that the project would utilize a negligible amount of Federal land.
k. Purpose of Project: The proposed market for the generated power will be the local electrical utilities and/or local state municipalities.
l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.
m. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $30,000.
n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

20a. Type of Application: 5 MW or less Exemption.
b. Project No: 7306–000.
c. Date Filed: May 4, 1983.
d. Applicant: Arnold Irrigation District and Gregory Hydro Resources, Inc.
e. Name of Project: Arnold Flume Hydroelectric Project.
f. Location: On Deschutes River, in Deschutes County, near Bend, Oregon.
g. Filed Pursuant to: Energy Security Act, 16 U.S.C. 2705 and 2708.
h. Contact Person: Mr. Kenneth L. Roach, Chairman of the Board, Arnold Irrigation District, 37 N.W. Irving Avenue, Bend, OR 97701, with a copy to: Mr. Peter D. Binney, CH2M HILL, 2020 S.W. 4th Ave., Portland, OR 97201.
i. Comment Date: July 27, 1983.
j. Description of Project: The proposed run-of-the-river project would consist of: (1) The existing Arnold Irrigation District's 1-foot-high by 185-foot-long diversion structure; (2) an existing 10-foot-wide by 6-foot-high radial gate intake to be widened to 50 feet; (3) an existing 400-foot-long, 25-foot-wide canal to be widened to 50 feet; (4) a new 5250-foot-long, 132-inch-diameter steel pipe to replace an existing flume; (5) a reinforced concrete forebay; (6) a new 180-foot-long, 96-inch-diameter steel penstock; (7) a new powerhouse to contain a Francis-type, turbine-generating unit with a rated capacity of 4.2 MW operating under a head of 97 feet and producing 24 million KWhs of energy annually; and (8) approximately one mile of transmission line.
k. This notice also consists of the following standard paragraphs: D3a, A1, B, and C.

21a. Type of Application: License (Under 5 MW).
b. Project No: 3292–003.
c. Date Filed: December 30, 1982.
d. Applicant: Hydro Corporation of Pennsylvania.
e. Name of Project: Clarion Water Power Project.
f. Location: On East Branch Clarion River in Elk County, Pennsylvania.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Robert L. Winship, Vice President, Hydro Corporation of Pennsylvania, 77 Franklin Street, 9th Floor, Boston, Massachusetts 02110.
i. Comment Date: August 22, 1983.
j. Description of Project: The proposed project would utilize the Corps of Engineers East Branch Clarion River Dam and Reservoir and would consist of: (1) A 60-inch diameter steel penstock and bifurcation utilizing the existing outlet works near the right dam abutment and leading to (2) a new powerhouse containing two turbines coupled to a single generator having a rated capacity of 2,450 kW; (3) a tailrace returning flow to the river near the existing outlet works stilling basin; (4) a new 12.5-kV transmission line, eight miles long; and (5) appurtenant facilities. The Applicant estimates the average annual energy output would be 8,600,000 kWh. Project energy would be sold to the Allegheny Power Service Corporation. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 3292.
k. This notice also consists of the following standard paragraphs: A2, B, C and D1.

22a. Type of Application: Application for License (5 MW or Less).
b. Project No: 7019–000.
c. Date Filed: January 24, 1983.
d. Applicant: City of Forsyth, Georgia.
e. Name of Project: East Juliette Hydro Project.
f. Location: East Juliette, Jones County, Georgia on the Ocmulgee River.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).
h. Contact Person: Richard W. Truitt, Mayor, City of Forsyth, Georgia, P.O. Box 676, Forsyth, Georgia 31082.
i. Comment Date: August 1, 1983.
j. Competing Application: Project No. 6350–000. Date Filed: May 20, 1982.

Notice Expiration Date: September 27, 1982.

k. The project would consist of: (1) An existing 20-foot high and 1,280-foot-long concrete dam; (2) an existing reservoir with a surface area of 78 acres and a normal storage capacity of 418 acre-feet; (3) two existing powerhouses located on the east bank of the Ocmulgee River with a total estimated capacity of 643 kW; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates the average annual generation of the project to be approximately 5,460 kWh. Project power would be sold to the residents of the City of Forsyth, Georgia.

l. The notice also consists of the following standard paragraphs: A3, B, C, and D1.

23a. Type of Application: Preliminary Permit.

b. Project No: 7090-000.

c. Date Filed: February 18, 1983.

d. Applicant: Plumas County, California.

e. Name of Project: Indian Creek Water Power.

f. Location: On Indian Creek, within Plumas National Forest in Plumas County, California.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. 791(a)-825(r)).

h. Contact Person: Mr. Lawrence J. Brock, Director, Plumas County Department of Public Works, Route 1, Box 279, Quincy, California 95971.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would consist of: (1) a 45-foot-high gravity concrete dam with crest elevation 3,480 feet; (2) a 10,500-foot-long low pressure pipeline; (3) a 60-inch-diameter, 1,200-foot-long penstock; (4) a powerhouse at elevation 3,000 feet containing 3 or 4 turbine generators with a total rated capacity of 10 MW and an average annual output of 39.53 GWh; and (5) a 0.2-mile-long, 44-kV transmission line connecting to an existing Pacific Gas and Electric Company line along Indian Creek.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month preliminary permit to conduct investigations and secure data to ascertain project feasibility and to prepare an application for license. Those studies would include core borings at potential dam and powerhouse sites. The Applicant has stated that study activities would not require new roads and that disturbed areas would be restored. The estimated cost of feasibility studies is $50,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

24a. Type of Application: Preliminary Permit.

b. Project No: 7274-000.

c. Date Filed: May 11,1983.

d. Applicant: Town of Wells, New York.

e. Name of Project: Lake Algonquin.

f. Loction: On the Sacandaga River, Town of Wells, Hamilton county, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Allen Hunt, Town Hall, Wells, New York 12190.

i. Comment Date: 29, 1983.

j. Competing application: Project No. 7094-000, Date Filed: February 22, 1983.

k. Description of Project: The proposed project would consist of: (1) An exisiting 17-foot-high, 250-foot-long concrete gravity dam with a 77-foot-long center gate structure with 3 vertical lift roller gates; (2) an existing 275-acre reservoir (Lake Algonquin) at elevation 986.0 feet M.S.L; (3) a new 100-foot-long penstock; (4) a new powerhouse containing turbine-generators with a total rated capacity of 725 kw; (5) a new 2,000-foot-long transmission line; and (6) appurtenant facilities. The dam is owned by the Town of Wells, New York. The project would generate up to 3,200,000 kWh annually.

l. Purpose of Project: Energy produced at the project would be sold to Niagara Mohawk Power Corporation.

m. This notice also consists of the following standard paragraphs: A3, B, C and D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,000.

25a. Type of Application: Preliminary Permit.

b. Project No: 7327-000.

c. Date Filed: June 1, 1983.

d. Applicant: Greenfields Irrigation District.

e. Name of Project: Turnbull Project.

f. Location: On the Spring Valley Canal in Teton County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert M. Fagerberg, Manager, Greenfields Irrigation District, P.O. Box 157, Fairfields, Montana 59436.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Department of the Interior's Spring Valley Canal and consist of: (1) A proposed powerhouse, containing an installed generating capacity of 9 MW; (2) a proposed 1.5-mile-long, 69 kV transmission line; (3) a proposed, 108-inch-diameter, 9,300-foot-long, penstock; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output will be about 24.5 GWh.

k. Purpose of Project: The Applicant anticipates that the energy produced will be marketed to a utility in the State of Montana.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $100,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

26a. Type of Application: Preliminary Permit.

b. Project No: 7132-000.

c. Date Filed: March 10, 1983.

d. Applicant: The County of Nevada, California.

e. Name of Project: Miner's Tunnel Hydroelectric Project.

f. Location: On South Yuba River, near Nevada City, in Nevada County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. James A. Curtis, Assistant County Counsel Courthouse, Nevada City, California 95959.

i. Comment Date: July 25, 1983.

j. Competing Application: Project No. 6727–000. Date Filed: 9/29/82. Application was noticed on December 13, 1982, and the notice expired on February 18, 1983.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) A 5-foot-high, 60-foot-long diversion structure at elevation 1315.00 feet; (2) a 12-foot-high, 18-foot-wide, and 950-foot-long existing tunnel; (3) a 10-foot-diameter, 75-foot-long steel penstock; (4) a powerhouse containing one generating unit with a rated capacity of 2,000 kW; and (5) a 1.5-mile-long, 60-kV transmission line to connect to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy production of 8.7 million kWh would be sold to Pacific Gas and Electric Company.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 24 months preliminary permit to conduct technical, environmental and economic studies, and to prepare an FERC license application at an estimated cost of $100,000.

l. This also consists of the following standard paragraphs: A3, B, C, and D2.

27a. Type of Application: Preliminary Permit.

b. Project No: 7234–000.

c. Date Filed: April 18, 1983.

d. Applicant: Muskingum River Hydro Associates.

e. Name of Project: Beverly Lock and Dam No. 4.

f. Location: On the Muskingum River in Washington County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Wayne L. Rogers, Synergics Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment Date: August 12, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Ohio Department of Natural Resources' Beverly Lock and Dam No. 4; (2) an existing reservoir with a crest elevation of 616.96 feet m.s.l.; (3) a new powerhouse containing two generating units having a total rated capacity of between 4.5 and 5.0 MW; (4) and existing 13.8-kV transmission line owned by the American Electric Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual output would be from 26 to 30 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the American Electric Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The term of the propose preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000.

28a. Type of Application: Preliminary Permit.

b. Project No: 7163–000.

c. Date Filed: March 21, 1983.

d. Applicant: Lynchburg Hydro Associates.

e. Name of Project: Lynchburg Dam Hydroelectric.

f. Location: On the James River in Amherst County, Virginia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Third Floor, Boston, Massachusetts 02116.

i. Comment Date: August 15, 1983.

j. Description of Project: The proposed project would consist of: (1) A Proposed powerhouse which will contain an installed generating capacity of 5 MW; (2) and existing gravity dam having two sections, a straight line section 740 feet long and an arched section 150 feet long; both having a height of 15 feet; (3) a 370 acre reservoir with a storage capacity of 1,800 acre-feet at pool elevation of 511 m.s.l.; (4) a proposed transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 19,200,000 kWh.

k. Purpose of Project: Lynchburg Hydro Associates plan to market the hydroelectric power to a local utility.

l. This notice also consist of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $70,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

29a. Type of Application: Preliminary Permit.

b. Project No.: 7285–000.

c. Date Filed: May 17, 1983.

d. Applicant: F & T Energy Corporation.

e. Name of Project: Mississippi River Lock and Dam No. 25.

f. Location: Lincoln County, Missouri.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Batton Rouge, Louisiana 70896.

i. Comment Date: August 19, 1983.

j. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Mississippi Lock and Dam No. 25 and consist of: (1) A proposed powerhouse which will contain 2 generating units, each rated at 18 MW for a total installed capacity of 36 MW; and (2) appurtenant facilities. The Applicant estimates the average annual energy generation to be 175 GWh. The Applicant also estimates that the project would utilize a negligible amount of Federal land.

k. Purpose of Project: The proposed market for the generate d/be power will the local electrical utilities and/or local state municipalities.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to

implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $30,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

30a. Type of Application: Preliminary Permit.

b. Project No: 7273–000.

c. Dated Filed: May 11, 1983.

d. Applicant: J. Michael Scott.

e. Name of Project: Hell Roaring Creek Water Power Project.

f. Location: On Hell Roaring Creek in Gallatin County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: J. Michael Scott, 503 North Black #7, Bozeman, Montana 59715.

i. Comment Date: August 19, 1983.

j. Description of Project: The proposed project will consist of : (1) a proposed 3-foot-high intake structure; (2) a negligible reservoir with a normal maximum pool elevation of 6,075 feet m.s.l.; (3) approximately 2.5 miles of an 18-inch-diameter penstock; (4) approximately 200 feet of 69 kV transmission line; (5) a proposed powerhouse to contain a 130 kV generating unit; and (6) appurtenant facilities. The Applicant estimates the average annual generating capacity to be 1.0 GWh. The Applicant also stated that the project is locatd on approximately 24 acres of U.S. Forest Service land in the Gallatin National Forest.

k. Purpose of Project: J. Michael Scott plans to market the hydroelectric power to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, to the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $4,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize constuction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

31. a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7253–000.

c. Date Filed: May 2, 1983.

d. Applicant: Sebec Hydro Company.

e. Name of Project: Sebec.

f. Location: Sebec Lake, Sebec River, near the town of Sebec, Piscataquis County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Dean Marriott, E. C. Jordan Co., P.O. Box 7050, Portland, Maine 04112.

i. Comment Date: August 8, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 273-foot-long, 15-foot-high rock-filled timber crib dam with a concrete cap; (2) a 6,803-acre reservoir (Sebec Lake) with a usable storage capacity of 35,000 acre-feet at elevation 322.8 feet M.S.L. with flashboards installed; (3) an existing 35-foot-wide, 75-foot-long forebay/intake structure located at the South dam abutment; (4) a new 20-foot-wide outlet gate section containing two outlet gates located at the north dam abutment; (5) a new powerhouse constructed atop an existing foundation at the end of the forebay/intake containing two new turbine-generators with a total rated capacity of 490 kW; (6) an existing tailrace channel to be lengthened; (7) a transmission line; and (8) appurtenant facilities. The project would generate up to 2,160,000 kWh annually. The reservoir would be operated in accordance with an operating agreement with the Sebec Lake Association.

k. Purpose of Project: Energy produced at the project would be sold to Bangor Hydro-Electric Company.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

32. a. Type of Application: Preliminary Permit.

b. Project No: 7302–000.

c. Date Filed: May 20, 1983.

d. Applicant: James E. Gaston.

e. Name of Project: Spring Creek Plant No. 1.

f. Location: On Spring Creek, in Centre County, near Bellefonte, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John J. Williams, William and Broome Inc., 1617 J. F. Kenney Blvd., Suite 1683, Philadelphia, Pennsylvania 19103.

i. Comment Date: August 26, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam, approximately 13 feet high and 105 feet long; (2) an existing reservoir with negligible storage capacity and surface area of approximately seven acres; (3) an existing intake structure approximately 13.7 feet wide adjacent to the dam; (4) an existing powerhouse structure to be retrofitted to house the installation of one generating unit with an installed capacity of 250 kW; (5) a proposed 12,000-volt transmission line approximately 3500 feet in length; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 1,400,000 kWh. The dam is owned by West Penn Power Company.

k. Purpose of Project: The Applicant anticipates that power will be sold to the West Penn Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $18,300.

33a. Type of Application: Preliminary Permit.

b. Project No: 7261–000.

c. Date Filed: May 4, 1983.

d. Applicant: Muskingum River Hydro Associates.

e. Name of Project: Luke Chute Lock and Dam No. 5.

f. Location: On the Muskingum River in Morgan County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David M. Coombe, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment Date: August 26, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Ohio Department of Natural Resources' Luke Chute Lock and Dam No. 5; (2) an existing reservoir with a crest elevation of 625.72 feet m.s.l.; (3) a new powerhouse containing two generating units having a total rated capacity of 3.6 to 4.0 MW; (4) an existing 13.8-kV transmission line owned by the American Electric Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 21.8 to 24.2 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the American Electric Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of prelimiary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000.

34a. Type of Application: Preliminary Permit.

b. Project No: 7129–000.

c. Date Filed: March 8, 1983, and revised on May 23, 1983.

d. Applicant: Wilfred and Rory Poulin.

e. Name of Project: Wynantskill Hydro Water Power Project.

f. Location: On Wynantskill Creek and Burden Pond, in Rensselaer County (Troy), New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Wilfred Poulin, Rd. 1, Box 107, Cropseyville, New York 12052.

i. Comment Date: August 19, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing limestone block dam, approximately 75 feet long by 10 feet high, owned by the City of Troy, New York and located at Burden Pond with a surface area of about 8 acres and negligible storage capacity. Dam crest elevation is 178 feet M.S.L.; (2) a proposed intake, trashrack, and gate house structure approximately 10 feet south of the existing dam; (3) a proposed 42-inch diameter steel penstock, approximately 2200 feet long, joining the proposed intake and powerhouse structures; (4) a proposed powerhouse, approximately 18 feet by 18 feet that will house a single turbine/generator rated at 600kW; (5) a proposed tailrace no longer than 10 feet; (6) a proposed 35,400-volt transmission line approximately 300 feet in length; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 2,600,000 kWh.

k. Purpose of Project: The Applicant anticipates that power will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $15,000.

35a. Type of Applicant: 5 MW Exemption.

b. Project No: 4799–001.

c. Date Filed: April 1, 1983.

d. Applicant: Commonwealth of Pennsylvania.

e. Name of Project: Nockamixon Dam Hydro Project.

f. Location: On Tohickon Creek, in Bedminster and Nockamixon Townships, in Bucks County, Pennsylvania.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended), and Part I of the Federal Power Act.

h. Contact Person: Nicholas DeBenedictis, Acting Secretary, Pennsylvania Department of Environmental Resources, Fulton Building, P.O. Box 2063, Harrisburg, Pennsylvania 17120.

i. Comment Date: August 8, 1983.

j. Description of Project: The project would consist of: (1) An existing earth-core, rock-fill dam 112 feet high and 1,511 feet long; (2) the existing Nockamixon reservoir, having a normal surface area of 1,450 acres and a storage capacity of 40,000 acre-feet at a normal pool elevation of 395.0 feet M.S.L.; (3) an existing vertical reinforced concrete intake structure (approximate height of 101 feet) connecting to two, 10 feet—6 inch square outlet conduits 344 feet long. A 72-inch penstock is located in the westerly conduit; (4) a proposed powerhouse spanning the existing tailrace, and housing four generating units with a total rated capacity of 1,339 kW; (5) a proposed transmission line that will connect to existing Metropolitan Edison Company transmission lines; and (6) appurtenant facilities. The dam and reservoir are owned by the Commonwealth of Pennsylvania. The Applicant estimates that the average annual energy output would be approximately 3,168,000 kWh.

k. Purpose of Project: The Applicant anticipates that energy will be sold to either Metropolitan Edison Company or Philadelphia Electric Company.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license Applicants that would seek to take or develop the project.

36a. Type of Application: Preliminary Permit.

b. Project No.: 7246–000.

c. Date Filed: April 28, 1983.

d. Applicant: Richard L. Pullen and/or Bobbe Pullen.

e. Name of Project: Pullen-Fall Creek.

f. Location: On Fall Creek, a tributary to the Salmon River, near Pollock, in Adams County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Richard L. and/or Bobbe Pullen, Star Route, Pollock, Idaho 83547.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would consist of: (1) A 40-inch-high, 20-foot-long concrete diversion structure at elevation 3,320 feet; (2) a 20-inch-diameter, 1,100-foot-long steel penstock; (3) a powerhouse at elevation 3,040 feet containing two generating units, one rated at 90 kW and one rated at 180 kW; and (4) a 180-foot-long transmission line. The average annual

energy production is estimated to be 1.4 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct environmental studies and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of studies is estimated to be $5,500.

k. Purpose of Project: Power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

37a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 6631-001.

c. Date Filed: January 24, 1983.

d. Applicant: Floyd and Claire Audette.

e. Name of Project: Mack's Creek.

f. Location: On Mack's Creek, partially within Boise National Forest, in Boise County, Idaho.

g. Filed Pursuant to: Energy Security Act of 1980 Section 408 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Floyd and Claire Audette, Idaho City Stage, Boise, Idaho 83706.

i. Comment Date: August 8, 1983.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high inlet box at elevation 3,900 feet; (2) a 10-inch-diameter, 2,200-foot-long penstock; (3) a powerhouse at elevation 3,800 feet containing a generating unit rated at 10 kW; and (4) a 1,000-foot-long transmission line. The average annual energy generation is estimated to be 1,000 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through

direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Historical and Archeological Preservation Act, the National Historic Preservation Act, the National Enviromental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for coments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as s condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly indentified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 22, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17219 Filed 6-24-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $4,600,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Mustang Fuel Corporation brought by the DOE's Office of Special Counsel.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461. All comments should conspicuously display a reference to case number HEF–0011.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–9834.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Mustang Fuel Corporation, 47 FR 57326 (December 23, 1982).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Mustang. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased natural gas liquids and products (NGLs) from Mustang's Calumet gas plant during the period September 1973 through June 1976. The Proposed Decision and Order provides that in order to be entitled to receive a portion of the settlement funds, a Mustang customer which purchased significant volumes of NGLs at the Calumet plant must furnish the DOE with evidence which demonstrates that it was injured by the alleged unlawful prices for NGLs charged by Mustang. However, the DOE proposed that refund applicants who made relatively small purchases from Mustang only be required to submit proof of the amount of NGLs purchased from Mustang during the consent order period.

The refund process suggested in the Proposed Decision and Order would take place in two separate stages. In the first stage, the DOE would consider all meritorious claims for refunds made by firms and individuals that demonstrate that they actually purchased Mustang product during the consent order period. For the second stage, which would take place after the claims procedure is completed, the Proposed Decision and Order suggests that the remainder of the consent order funds might be distributed through the governments of states in which Mustang marketed NGLs during the period covered by the consent order.

It should be pointed out that until final procedures are adopted for the first stage, no claims for refunds can be accepted. Applications for Refund therefore should not be filed at this time.

Appropriate public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. No less than 90 days from publication of such notice in the **Federal Register** will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1111, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461.

Issued in Washington, D.C., on June 20, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 20, 1983.

Proposed Decision and Order of the Department of Energy Special Refund Proceedings

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Mustang Fuel Corporation

Date of Filing: January 7, 1983

Case No: HEF-0011

Under the regulations of the Department of Energy, the Office of Special Counsel (formerly the Economic Regulatory Administration's Office of Enforcement and hereinafter referred to as OSC) may request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for distributing funds received as a result of an enforcement proceeding in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 C.F.R. Part 205, Subpart V. In accordance with these regulatory provisions, the OSC filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Mustang Fuel Corporation and its subsidiary Mustang Gas Products Company (hereinafter referred to as Mustang). Pursuant to the Consent Order, Mustang agreed to make refunds for alleged violations of the DOE price regulations in the amount of $4,600,000. The funds have been paid to the Department of Energy and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their distribution.

I. Background

Mustang is a "gas plant operator" as that term is defined in 10 CFR 212.162, and a "refiner" within the meaning of 10 CFR 212.31. During the relevant time period, Mustang was therefore subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subpart E and K. Those regulations governed the maximum prices that could lawfully be charged in the first sales of natural gas liquids and products (NGLs). The regulations also governed the pruchase and resale of NGLs by gas plant operators and refiners.

The funds involved in this proceeding were obtained as a result of a consent order that Mustang entered into with the DOE in settlement of alleged violations of the DOE regulations identified above. In an audit of Mustang's Calumet gas processing plant, the OSC found possible overcharges with respect to sales of NGLs during the period from September 1973 through June 1976. Mustang Gas Products Company operates and owns 50 percent of the plant. The remaining 50 percent of the plant is owned by Amoco Production Company (Amoco). According to the record in this proceeding, Amoco marketed all of the products produced at the Calumet plant and paid Mustang its share of the revenues.

In order to settle all claims and disputes between the parties, Mustang agreed to pay $4,600,000 to the DOE. The parties further agreed that this amount would be distributed by the agency pursuant to 10 C.F.R. Part 205, Subpart V. Notice of the Proposed Consent Order was published in the **Federal Register**. *See* 47 FR 51182 (November 12, 1983). The Proposed Consent Order was finalized without modification. *See* 47 FR 57326 (December 23, 1982).

II. Jurisdiction

The procedural regulations of the Department of Energy set forth guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process is most appropriately used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 C.F.R. § 205.280. For a more detailed discussion of Subpart V, *see Office of Special Counsel for Compliance*, No. DFF-0003 (March 13, 1981) (proposed decision), 46 Fed. Reg. 17643 (1981); *Office of Enforcement*, No. BEF-0021 (March 13, 1981) (proposed decision), 46 17639 (1981) (hereinafter referred to as *Alcoa*).

After reviewing the record developed in this case, we have concluded that the implementation of Subpart V proceedings is appropriate. There is a significant degree of difficulty in ascertaining the persons who were injured by the alleged overcharges in the present case, and the level of refunds that such persons should receive. During the period covered by the consent order, NGLs were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to persons who were injured. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). To direct refund moneys to the parties actually affected by the alleged overcharges in the absence of a comprehensive price regulations system, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. In short, the persons eligible to share in the consent order funds are not readily identifiable, and the amounts of the refunds that persons should receive are not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism for devising a procedure to compensate persons who were actually injured by alleged pricing violations. The Office of Hearings and Appeals therefore proposes to exercise jurisdiction over the funds received from Mustang in settlement of the proceeding underlying the Petition for Implementation of Special Refund Proceedings filed by the OSC in this matter.

III. Authority to Fashion Refund Procedures

In several prior decisions involving Petitions for the Implementation of Special Refund Procedures we have discussed the OHAs authority to establish procedures to distribute funds obtained as a result of settlement agreements. *See, e.g., Office of Enforcement*, 9 DOE ¶ 82,508 at 85,046–49 (1981) (hereinafter cited as *Caline*); *Office of Enforcement*, No. DFF-0006 (March 5, 1981) (proposed decision), 46 FR 15320, 15322–23 (1981) (hereinafter cited as *Vickers*). Subpart V of the DOE procedural regulations, 10 CFR Part 205, authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute refunds obtained as part of settlement agreements. 10 CFR 205.281, 205.282. The special refund procedures are part of an overall regulatory program and are intended to implement several different statutes. Congress provided for mandatory price controls on crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 (1976). NGLs are included within the definition of petroleum products and were therefore subject to the provisions of the DOE price regulations during the periods covered by the consent order. *See Mobil Oil Corp.* v. *FEA*, 556 F. 2d 87 (Temp. Emer. Ct. App. 1977).

The authority to enforce the regulations governing the pricing of petroleum products such as NGLs was first exercised by the Cost of Living Council under the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970), then delegated in turn to the Federal Energy Office, the Administrator of the Federal Energy Administration, and finally, in 1977, to the Secretary of Energy. Federal Energy Administration Act (FEAA) 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the Department of Energy have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation, or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order").

As we have noted in previous Subpart V decisions, the DOE's equitable power to order restitution is designed to accomplish two independent purposes: disgorgement of the fruits of a regulatory violation from the wrongdoers, and providing refunds to persons injured by the regulatory violation. *Vickers; see also Sauder* v. *DOE*, 648 F. 2d 1341 at 1348 (Temp. Emer. Ct. App. 1981).

IV. Proposed Refund Procedures

To fulfill the objectives expressed in the statutes and regulations discussed above, and the consent order itself, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the refund amounts to the parties who bore the effects of the alleged overcharges. *See Alcoa*, 46 FR at 17041; *Vickers*, 46 FR at 15322.

Based on our experience with Subpart V cases, we believe that the distribution of funds should generally take place in two stages. In the first stage of the process, payment should be made to persons and firms who file applications for refund and demonstrate they are entitled to a portion of the funds received by the DOE because they have suffered injury as a result of overcharges. After meritorious claims are paid to firms and individuals in the first stage, a second stage may be necessary if there are funds remaining in the consent order account. The procedures by which we propose to distribute the funds obtained from Mustang are discussed below at greater length.

A. Refunds to Identifiable Purchasers

As a first stage in the refund process, the consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of NGLs by Mustang. With respect to Mustang customers which purchased significant volumes of NGLs at the Calumet plant, the existence of banks of unrecovered costs will be a prerequisite to the necessary showing of injury. However, cost banks may result from a variety of causes unrelated to overcharges, such as the existence of increased non-product costs and voluntary actions taken by a firm. Therefore, the existence of banks alone is neither dispositive of whether a firm actually experienced an injury caused by alleged overcharges, nor a reliable measure of the extent of any injury which may have occurred. Consequently, in addition to showing that it has maintained a bank of unrecovered costs, a refund applicant which purchased significant volumes of Mustang NGLs directly from the Calumet plant will also be required to demonstrate that it experienced injury.

However, requiring smaller downstream purchasers to demonstrate injury might discourage them from applying for a refund, since the expense of preparing such an application could well exceed the refund to be gained. In certain cases we have therefore established a threshold level of purchases (50,000 gallons per month or 600,000 gallons per year) under which applicants—primarily smaller firms and individuals—were not required to make a detailed showing of actual injury. For those applicants who were claiming less than that level of purchases, we required only proof of the amount of products purchased by the applicant during the consent order period. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We will consider using the same type of treatment for smaller claimants in this proceeding, and we specifically request comments from interested parties and the public on this issue.

More detailed information regarding the precise data that a refund applicant should submit will be set forth in our final Decision and Order in this proceeding. Furthermore, we will request the assistance of Mustang and Amoco, marketer of the Mustang NGLs, in identification of first purchasers of the NGLs. In addition, we will publish notice of this proposed refund process in the **Federal Register** and provide an opportunity for affected parties to file comments with respect to our tentative refund plans.

Finally, in its Petition for Implementation of Special Refund Procedures, the OSC requests that we adopt for purposes of this proceeding the following provision contained at Section 403 of the Mustang Consent Order:

Mustang and the DOE agree that as a condition precedent to any claimant's eligibility to receive a refund, the claimant shall be required to waive and release any and all claims and rights it may have against Mustang with respect to the matters covered by this Consent Order.

If we adopt this provision, any purchaser accepting a refund from the Mustang consent order funds would be required to waive its right to bring a private lawsuit under Section 210 of the Economic Stabilization Act, 12 U.S.C. 1904 note. In *Office of Enforcement, Economic Regulatory Administration: In the Matter of Vickers Energy Corp.*, 8 DOE ¶82,597 (1981) *(Vickers)*, we stated that we would carefully examine a requested provision of this type before incorporating it into Subpart V proceedings. After examining all the factors involved, we concluded in *Vickers* that adoption of an election of remedies provision was appropriate in that case because, *inter alia*, it would encourage settlements between the DOE and regulated firms, and because no rights of any injured party would be prejudiced by such adoption. *Id.* at 85,395. This reasoning is equally applicable to the Mustang proceeding, and we therefore conclude that the consent order provision regarding election of remedies should be adopted. Accordingly, any applicant requesting a refund from the Mustang consent order funds will be required to execute an election of remedies statement.

B. Distribution of the Remainder of the Refund Amount

After all of the claims of parties identifying themselves as adversely affected purchasers of the NGLs sold by Mustang have been filed and the share of the settlement fund to which applicants are entitled has been determined, the refund account provided by Mustang pursuant to the Consent Order, while diminished, may not be exhausted. A second-stage proceeding may then be necessary to complete the disbursement of the consent order funds.

Four States, Maine, Vermont, Indiana, and California, and the National Consumer Law Center, filed comments regarding the manner in which we should disburse money available for second stage refunds. These entities generally urge that funds remaining after the first stage of the Mustang refund process is complete be distributed to all states for use in energy related programs.

In *Palo Pinto Oil & Gas*, 10 DOE ¶ 85,049 (1983) we found that state governments were appropriate conduits for distribution of second stage refund monies, and such a procedure may well be the most expedient means for providing restitution to ultimately overcharged Mustang customers. In this Decision, we are not proposing specific second-stage refund procedures. Such a step would be of little value at this stage of the proceeding, since the amount of funds remaining after all meritorious claims have been paid during the first-stage directly affects the appropriateness of the second-stage distribution scheme. We will therefore not specifically address at this time the comments filed by the four States and the National Consumer Law Center.

We will accept and consider comments regarding first and second stage refund plans received within 30 days after publication of this decision in the **Federal Register**, and then issue a final decision establishing procedures for the first-stage distribution of the Mustang consent order funds. In the final decision, we will discuss summarily the comments received concerning the proposed second-stage procedure, and solicit another round of comments on the distribution of the residual funds. In this way, we will have several opportunities to resolve the outstanding issues before reaching a final decision on the second stage, if any, of this proceeding.

It is Therefore Ordered That:

The $4,600,000 refund amount supplied by Mustang Fuel Corporation and its subsidiary Mustang Gas Products Company will be distributed in accordance with the foregoing Decision.

[FR Doc. 83-17137 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2388-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed

are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Air Programs

Title: Survey of Information to Assess the Need for a NESHAP for Arsenic—Secondary Lead Smelters (EPA ID 1122).

Abstract: This survey will help EPA assess the need for a National Emission Standard for Hazardous Air Pollutants (NESHAP) for secondary lead smelters emitting arsenic after determining the impact of these emissions on human health.

Respondents: Owners or operators of secondary lead smelters.

* * * * *

Agency Forms Cleared by OMB Between May 26 and May 31, 1983

EPA ID 0223, Declaration Form for Imported Motor Vehicles Not Conforming to Federal Air Pollution Regulations, was cleared on May 31 (OMB #2000-0040).

EPA ID 0604, Pilot Study: Pesticide Use Survey of Public Outdoor Use Areas, was cleared on May 31 (OMB #2070-0014).

EPA ID 1034, National Pesticide Usage Survey of Nurseries, was cleared on May 31 (OMB #2070-0015).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, SW., Washington, D. C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: June 17, 1983.

John Warren,

Acting Chief, Statistical Policy Staff.

[FR Doc. 83-17034 Filed 6-24-83; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 2389-1]

Science Advisory Board; High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in Conference Room Rosslyn "B", Westpark Hotel, 1900 N. Fort Myer Drive, Arlington, Virginia on July 12-13, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to continue the review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the **Federal Register**, Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which will be the sixth in a series of meetings on the proposed rules, will include discussions of risk assessment, geochemistry, health effects, qualitative assurance requirements and engineering and economic assumptions. The Subcommittee will also be briefed on additional public comments received by the Agency on the proposed rules.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to July 8, 1983, in order to be placed on the agenda.

Dated: June 20, 1983.

Harry C. Torno,

Acting Staff Director, Science Advisory Board.

[FR Doc. 83-17155 Filed 6-24-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59127A; PH-FRL 2389-2]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-56, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: June 16, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the application, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-56

Date of Receipt: May 18, 1983.

Notice of Receipt: May 27, 1983 (48 FR 23902).

Applicant: Confidential.

Chemical: Esterified vinyl, alkenylpolymer (Generic).

Use: Performance enhancer.

Production Volume: 120,000 lbs.

Worker Exposure: Confidential.
Test Marketing Period: 6 months.
Commencing on: June 16, 1983.
Risk Assessment: Based on the type of polymer and molecular weight, the test market substance is not expected to be water soluble. No health or environmental concerns were identified. Exposure to workers and the environment is expected to be low. Therefore, EPA finds that the TME substance will not present any unreasonable risk to health or the environment during test marketing under the conditions specified in the application.
Public Comments: None.
The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: June 16, 1983.

Marcia E. Williams,
Acting Director, Office of Toxic Substances.

[FR Doc. 83-17157 Filed 6-22-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-53050; TSH-FRL 2388-4]

Premanufacture Notices; Monthly Status Report for May 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the Federal Register at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for May 1983.

DATE: Written comments are due no later then 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53050]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M Street, SW., Washington, DC 20460, (202-382-3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the Federal Register as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during May; (b) PMNs received previously and still under review at the end of May; (c) PMNs for which the notice review period has ended during May; (d) chemical substances for which EPA has received a notice of commencement to manufacture during May; and (e) PMN's for which the review period has been suspended. Therefore, the May 1983 PMN Status Report is being published.

Dated: June 20, 1983.

Ronald A. Stanley,
Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, May 1983

I. 115 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83-673	Generic name: 1-([4-[(substitutedphenyl)azo)-1-naphthalenyl]amino)-3-Methoxy-2-propanol (	48 FR 23903 (5/27/83)	July 25, 1983.
83-674	Generic name: 1-([4-[(substitutedphenyl)azo)-1-naphthalenyl]amino)-3-butoxy-2-propanol	48 FR 23903 (5/27/83)	July 25, 1983.
83-683	1-ethynyl-1-cyclopentanol	48 FR 21371 (5/12/83)	July 30, 1983.
83-684	1,4-bis(1-hydroxy cyclopentyl)butadiyne	48 FR 21371 (5/12/83)	July 30, 1983.
83-685	Generic name: [(Substituted phenyl)hydrazono] substituted oxoheteromonocycle	48 FR 21371 (5/12/83)	July 30, 1983.
83-686	Generic name: Modified ethylene-tetrafluoro-ethylene copolymer	48 FR 21371 (5/12/83)	July 30, 1983.
83-687	Generic name: Carboxylated vinylic polymer	48 FR 21371 (5/12/83)	July 31, 1983.
83-688	Generic name: Substituted acrylamide copolymer	48 FR 21371 (5/12/83)	July 31, 1983.
83-689	Generic name: Water reducible alkyd resin	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-690	Generic name: Quaternary salt of a polymer of methyl methacrylate, butyl acrylate, and substituted methacrylate.	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-691	Generic name: Trisubstituted benzothiazole salt	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-692	Generic name: Trisubstituted benzothiazole	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-693	N, N'-diaminopropyl ethyl piperazine	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-694	Generic name: Polyester of phthalic anhydride and polyhydric saturated alcohols	48 FR 21372 (5/12/83)	Aug. 2, 1983.
83-695	Generic name: Copolymer of vinyl amides	48 FR 21372 (5/12/83)	Aug. 2, 1983.
83-696	Generic name: Dimer fatty acids, monocarboxylic acid, and polyamines polymer, modified with an acrylic acid copolymer.	48 FR 21372 (5/12/83)	Aug. 2, 1983.
83-697	Generic name: Fatty acid alkyd based polymer	48 FR 21372 (5/12/83)	Aug. 2, 1983.
83-698	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Aug. 3, 1983.
83-699	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Aug. 3, 1983.
83-700	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Aug. 3, 1983.
83-701	3-[2-(2,4-dinitrophenyl)ethenyl]-1H-indole	48 FR 22793 (5/20/83)	Aug. 3, 1983.
83-702	Generic name: Modified styrene-acrylic polymer	48 FR 22793 (5/20/83)	Aug. 6, 1983.
83-703	Generic name: Sodium alkyl allyl sulfosuccinate	48 FR 22793 (5/20/83)	Aug. 6, 1983.
83-704	Cyclohexanecarbonitrile, 1,1,'-azobis	48 FR 22793 (5/20/83)	Aug. 7, 1983.
83-705	Cyclohexanecarbonitrile, 1-amino	48 FR 22793 (5/20/83)	Aug. 7, 1983.
83-706	Generic name: Resorcinol-fatty acid polymer	48 FR 22793 (5/20/83)	Aug. 7, 1983.
83-707	Generic name: Chromophore substituted poly (oxyalkylene)	48 FR 22793 (5/20/83)	Aug. 7, 1983.
83-708	Generic name: Chromophore substituted poly (oxyalkylene)	48 FR 22973 (5/20/83)	Aug. 7, 1983.
83-709	Generic name: Acetamide, N-([4-methoxy-2-([5-nitro-2-thiazolyl]azo)-5-(substituted)amino]phenyl)	48 FR 23903 (5/27/83)	Aug. 7, 1983.
83-710	Further clarification needed before a generic name can be established	48 FR 23903 (5/27/83)	Aug. 7, 1983.
83-711	Generic name: Metal oxide, reaction products with fatty alcohol and mineral acid	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-712	Generic name: Polyhydroxyaromatic amine sulfonate salt	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-713	Generic name: Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-714	Generic name: Polyester urethane resin based on ethylene glycol, 1,4-butanediol, adipic acid and MDI.	48 FR 22794 (5/20/83)	Aug. 7, 1983.

I. 115 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-715	Generic name: Polyester urethane resin based on neopentyl glycol, 1,6,-hexanediol, adipic acid, aliphatic isocyanates and aliphatic amines.	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-716	Generic name: Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-717	Generic name: Oxopentadecanolide	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-718	Generic name: Mixed phthalic acid-tall oil fatty acid alkyd resin	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-719	Generic name: Saturated mixed glycols/mixed acids copolyester	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-720	Generic name: Cellulose, alkyl alkoxy ether	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-721	Generic name: Alkylbiphenyls	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-722	Generic name: Alkyl acrylate copolymer	48 FR 22794 (5/20/83)	Aug. 7, 1983.
83-723	Generic name: Metal chloro carbonyl dimer	48 FR 22794 (5/20/83)	Aug. 8, 1983.
83-724	Generic name: Metal substituted B-diketonate	48 FR 22794 (5/20/83)	Aug. 8, 1983.
83-725	Methyl lactate	48 FR 22795 (5/20/83)	Aug. 8, 1983.
83-726	Generic name: Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.	48 FR 22795 (5/20/83)	Aug. 8, 1983.
83-727	Generic name: Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.	48 FR 22795 (5/20/83)	Aug. 8, 1983.
83-728	Generic name: Organic silane-sulfonyl azide	48 FR 22795 (5/20/83)	Aug. 8, 1983.
83-729	Generic name: Copolymer of mixed alkyl esters of acrylic and methacrylic acids	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-730	Oxo-hexyl actate	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-731	Generic name: Acrylic resin	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-732	Generic name: Polymer of styrene with divinyl-benzene substituted partially by N-hydroxy-alkyl-N, N-dialkyl ammonium alkyl and partially by N, N-dialkylaminoalkyl.	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-733	Cyclohexanedimethanol—isophthalic acid—trimellitic anhydride condensation product	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-734	Generic name: Toluene di-isocyanate adduct with a poly hydroxy compound	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-735	Generic name: Ketimine	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-736	Generic name: Alkoxylated polyamine	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-737	Generic name: Hydroxy functional acrylic resin	48 FR 23904 (5/27/83)	Aug. 13, 1983.
83-738	Generic name: Hydroxy functional acrylic resin	48 FR 23904 (5/27/83)	Aug. 13, 1983.
83-739	Generic name: Diamide of polybutenyl succininc anhydride	48 FR 23904 (5/27/83)	Aug. 14, 1983.
83-740	Generic name: Polymer of acrylic acid and mixed alkyl acrylates	48 FR 23904 (5/27/83)	Aug. 14, 1983.
83-741	Generic name: Substituted polyalkylene polyamine	48 FR 23904 (5/27/83)	Aug. 14, 1983.
83-742	Generic name: Polyalkylenecxy alkanoate	48 FR 23904 (5/27/83)	Aug. 14, 1983.
83-743	Generic name: Alkoxy alkyl halo alkanoate	48 FR 23905 (5/27/83)	Aug. 14, 1983.
83-744	Generic name: Heterocazine	48 FR 23905 (5/27/83)	Aug. 15, 1983.
83-745	Generic name: Modified rosin ester	48 FR 23905 (5/27/83)	Aug. 15, 1983.
83-746	Generic name: Esterified vinyl, alkenyl polymer	48 FR 23905 (5/27/83)	Aug. 15, 1983.
83-747	Generic name: Copolymer of alkyl methacrylates and substituted alkyl methacrylates	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-748	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-749	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-750	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-751	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-752	Generic name: Benzothiazole, N-substituted-2-substituted	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-753	Generic name: Styrene acrylic copolymer	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-754	Generic name: Polyimide ester	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-756	Generic name: (Substituted) (substituted) naphthalene sulfonic acid, and (substituterd) (substituted) naphthalene sulfonic acid, chloride.	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-757	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-758	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-759	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-760	Generic name: Methylpropenylpyridine	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-761	Generic name: Substituted cyclopentadione	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-762	Generic name: Octenal	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-763	Generic name: N,N'-bis(substituted alkyl) dicarboxylic acid diamide	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-764	Generic name: N,N'-bis(substituted alkyl) dicarboxylic acid diamide	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-765	Generic name: Poly[alkylene-bis(amidoalkyl)-bis(dialkyl) oxaalkylene diammonium dichloride]	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-766	Generic name: Poly[alkylene-bis(amidoalkyl)-bis(dialkyl) oxaalkylene diammonium dichloride]	48 FR 24968 (6/3/83)	Aug. 20, 1983.
83-767	Generic name: Trisubstituted heterocycle	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-768	Generic name: Trisubstituted heterocycle	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-769	Generic name: Disubstituted heterocycle	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-forminidphenol with sulfonaphthylazosulfonaphthol.	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-772	Generic name: [(Haloheterocyclic ozy) aryloxy] alkanoate	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-773	Generic name: Polyester	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-774	Generic name: Substituted phenolic derivative, alkyl ester	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-775	Generic name: Polymer of mixed acrylates and methacrylates	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-776	Generic name: Hydrogenated diene copolymer	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-777	Generic name: Disubstituted methanone	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-778	Generic name: Cyclomethylene citronellal	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-779	Generic name: Cyclomethylene citronellol	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-780	Generic name: Aryl borate	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-781	Generic name: An organic complex of a halogenated metal	48 FR 24969 (6/3/83)	Aug. 23, 1983.
83-782	Generic name: Product of alcohol, halogenated metal, organic complex of halogenated metal	48 FR 24969 (6/3/83)	Aug. 23, 1983.
83-783	Generic name: An organic complex of a halogenated metal	48 FR 24969 (6/3/83)	Aug. 23, 1983.
83-784	Generic name: Substituted heteromonocycle	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-785	Generic name: Substituted heteromonocycle sulfonylphenyl azo substituted naphthalenesulfonic acid, salt.	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-786	Generic name: Ester of a substituted phenol and an inorganic acid	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-787	Generic name: Salt of diester of phosphorodithioic acid	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-788	Generic name: Reaction product of fatty alkene amine and isocyanate	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-789	Generic name: Reaction product of a fatty alkene amine, aromatic amine and isocyanate	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-790	Generic name: Heterocyclic carboxylic acid	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-791	Generic name: Vegetable oil polyamide resin	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-792	Generic name: Alkylamine salt of polyalkylpolycyclic sulfonic acid	48 FR 26885 (6/10/83)	Aug. 24, 1983.
83-793	Generic name: 2-chloro-4(N,N-diethylamino)-5-substituted aryloxydiazonium tetrafluoroborate	48 FR 26885 (6/10/83)	Aug. 24, 1983.
83-794	Generic name: Lignosulfonate, reaction product with an alkenoic acid	48 FR 26885 (6/10/83)	Aug. 24, 1983.
83-795	4-Methylumbelliferyl-B-D-glucuronide	48 FR 26885 (6/10/83)	Aug. 28, 1983.

II. 73 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
83-608	Generic name: Substituted bis substituted benzeneaminium, dichloride	48 FR 16331 (4/15/83)	June 29, 1983.
83-609	Generic name: Substituted benzenesulfonic acid, sodium salt and substituted benzenesulfonic acid	48 FR 16331 (4/15/83)	June 29, 1983.
83-610	Generic name: Disubstituted glycine complex	48 FR 16331 (4/15/83)	July 2, 1983.
83-611	Generic name: Disubstituted glycine	48 FR 16331 (4/15/83)	July 2, 1983.
83-612	Generic name: Polymer of alkyl and heteromonocyclic amines and an alkanedioic acid	48 FR 16331 (4/15/83)	July 2, 1983.
83-613	1,3 Benzenedimethanamine polymer with (chloromethyl) oxirane	48 FR 16331 (4/15/83)	July 3, 1983.
83-614	Generic name: Modified fluoroaliphatic adduct	48 FR 16331 (4/15/83)	July 3, 1983.
83-615	Generic name: Perfluoroaliphatic isocyanate adduct	48 FR 16331 (4/15/83)	July 3, 1983.
83-616	Cesium permanganate	48 FR 16332 (4/15/83)	July 4, 1983.
83-617	Cesium aluminum sulfate	48 FR 16332 (4/15/83)	July 4, 1983.
83-618	Generic name: CI direct red 259	48 FR 16332 (4/15/83)	July 5, 1983.
83-619	Cuprate (5-), [μ-[2-[[1-[4-[2-[4-[[4-[2-[4-[4-[(2-carboxyphenyl]azo]4,5-dihydro-3-methyl-5-oxo-1*H*-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1, 3, 5-triazin-2-yl]amino-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1*H*-pyrazol-4-yl]azo]-5-sulfobenzoato(9-)]]di,pentasodium.	48 FR 16332 (4/15/83)	July 5, 1983.
83-620	Generic name: CI direct red 260	48 FR 16332 (4/15/83)	July 5, 1983.
83-621	Benzoic acid, 2- [[1-[4-[2-[4-[[4-[[4-[2-[4-[4-[(2-carboxyphenyl]azo]-4,5-dihydro-3-methyl-5-oxo-1*H*-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino-6-(phenylamino]-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1*H*-pyrazol 4-yl]azo]-5-sulfo-, pentasodium salt.	48 FR 16332 (4/15/83)	July 5, 1983.
83-622	1,3,6-Naphthalenetrisulfonic acid, 7-[[4-[[4-[[4-[(4,8-disulfo-2-naphthalenyl)azo]-3-methylphenyl]amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-2-methylphenyl]azo]-, hexasodium salt.	48 FR 16332 (4/15-83)	July 5, 1983.
83-623	Generic name: [Bis(alkylphenamino)-fluoran][(phenimidazolyl)bis methylene] deriv. phosphate	48 FR 16332 (4/15/83)	July 5, 1983.
83-624	Generic name: Styrene-acrylate-methacrylate copolymer	48 FR 16332 (4/15/83)	July 5, 1983.
83-625	Generic name: Polyamine adduct	48 FR 16332 (4/15/83)	July 5, 1983.
83-626	Generic name: Substituted melamine formaldehyde compound	48 FR 16332 (4/15/83)	July 5, 1983.
83-627	Generic name: Substituted diyne urethane	48 FR 117385 (4/22/83)	July 6, 1983.
83-628	Reaction product of diglycidyl ether of bisphenol A, dimer acid, soya fatty acid and dimethylol propionic acid.	48 FR 117385 (4/22/83)	July 9, 1983.
83-629	Reaction product of 2-butanone oxime and polymethylene polyphenylene isocyanate	48 FR 17385 (4/22/83)	July 9, 1983.
83-630	Generic name: Reaction product of an aromatic diglycidyl ether, an amine and cyclic ester	48 FR 17385 (4/22/83)	July 9, 1983.
83-631	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 17385 (4/22/83)	July 9, 1983.
83-632	7-[4-chloro-6-[3-[2-(hydroxy sulfonyloxy) ethylsulfonyl)-*N*-ethylanilino]-1,3,5-triazine-2-ylamino]-4-hydroxy-3-(4-methoxy-2-sulfophenyl-azo)-2-naphthalenesulfonic acid, trisodium salt.	48 FR 17385 (4/22/83)	July 10, 1983.
83-633	4-amino-5-hydroxy-3-[3-[2-(hydroxysulfonyloxy) ethylsulfonyl]phenylazo]-6-(1,5-disulfo-2-naphthylazo)-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 17385 (4/22/83)	July 10, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 10, 1983.
83-635	Generic name: Isocyanate functional polyester urethane prepolymer	48 FR 17386 (4/22/83)	July 11, 1983.
83-636	Generic name: Modified polyester polyurethane	48 FR 17386 (4/22/83)	July 11, 1983.
83-637	Generic name: Polyether alkenyl alkanyl esters	48 FR 17386 (4/22/83)	July 12, 1983.
83-638	Generic name: Polyether alekryl alkanyl esters	48 FR 17386 (4/22/83)	July 12, 1983.
83-639	Generic name: Trisubstituted benzoxazolium salt	48 FR 17386 (4/22/83)	July 12, 1983.
83-640	Generic name: Disubstituted benzenamine	48 FR 17386 (4/22/83)	July 12, 1983.
83-641	Generic name: Trisubstituted benzothiazolium salt	48 FR 17386 (4/22/83)	July 12, 1983.
83-642	Generic name: Disubstituted phenol	48 FR 20487 (5/6/83)	July 13, 1983.
83-643	Generic name: Disubstituted benzoxazole	48 FR 20488 (5/6/83)	July 13, 1983.
83-644	Generic name: Trisubstituted benzoxazolium salt	48 FR 20488 (5/6/83)	July 13, 1983.
83-645	Generic name: Alkyd polymer from a vegetable oil with substituted alkanediols and carbomonocyclic acids.	48 FR 20488 (5/6/83)	July 13, 1983.
83-646	Generic name: Modified alkyd resin	48 FR 20488 (5/6/83)	July 13, 1983.
83-647	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20488 (5/6/83)	July 13, 1983.
83-648	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20488 (5/6/83)	July 13, 1983.
83-649	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20488 (5/6/83)	July 13, 1983.
83-650	Generic name: Polymer or a diisocyanate, polyether, alkanol substituted cycloalkane, dipropylene glycol.	48 FR 20488 (5/6/83)	July 16, 1983.
83-651	Generic name: Polymer of a diisocyanate polyether glycol, alkanol substituted cycloalkane, dipropylene glycol, alkanol diamine, substituted bisphenol A polymer.	48 FR 20488 (5/6/83)	July 16, 1983.
83-652	Generic name: Modified poly(amido-amine)	48 FR 20488 (5/6/83)	July 17, 1983.
83-653	Generic name: Disubstituted isobenzofurandione, disubstituted bis phenyleneoxy bis copolymer with tetracarboxy carbocycle and disubstituted benzenediamine.	48 FR 20488 (5/6/83)	July 17, 1983.
83-654	Lauryl sulfate salt with 2-amino-2-methyl-1-propanol	48 FR 20488 (5/6/83)	July 17, 1983.
83-655	Generic name: Naphthalenesulfonic acid, derivative, ester with hydroxybenzo-phenone	48 FR 20488 (5/6/83)	July 17, 1983.
83-656	Generic name: Substituted alkyl carboxylic acid, carbomonocylic ester	48 FR 20488 (5/6/83)	July 18, 1983.
83-657	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20489 (5/6/83)	July 19, 1983.
83-658	Generic name: Trisubstituted benzenamine	48 FR 20489 (5/6/83)	July 19, 1983.
83-659	Generic name: Tetrasubstituted benezena	48 FR 20489 (5/6/83)	July 19, 1983.
83-660	Generic name: Perfluorinated hydrocarbon	48 FR 20489 (5/6/83)	July 19, 1983.
83-661	Generic name: Polyimide ester	48 FR 20490 (5/6/83)	July 20, 1983.
83-662	Generic name: Melamine formaldehyde resin	48 FR 20490 (5/6/83)	July 20, 1983.
83-663	Generic name: Alkyl-substituted aromatic amine	48 FR 20490 (5/6/83)	July 20, 1983.
83-664	Generic name: Substituted benzoic acid	48 FR 20490 (5/6/83)	July 23, 1983.
83-665	Generic name: Mixed polyalkoxy alkyl siloxanes and silsesquioxanes	48 FR 20490 (5/6/83)	July 24, 1983.
83-666	Generic name: Aromatic alkyd	48 FR 20490 (5/6/83)	July 24, 1983.
83-667	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20490 (5/6/83)	July 24, 1983.
83-668	Generic name: Tetrasubstituted benzenamine	48 FR 20490 (5/6/83)	July 24, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholzaosulfonaphthol.	48 FR 20490 (5/6/83)	July 24, 1983.
83-670	Polymer of: neopentyl glycol, trimellitic anhydride, phthalic anhydride, trimethyl pentanediol	48 FR 20491 (5/6/83)	July 24, 1983.
83-671	Generic name: Tetrasubstituted benzothiazole salt	48 FR 20491 (5/6/83)	July 25, 1983.
83-672	Generic name: Trisubstituted benzothiazole salt	48 FR 20491 (5/6/83)	July 25, 1983.
83-675	Generic name: Vinyl acetate, butyl acrylate, substituted methacrylate, terpolymer	48 FR 20491 (5/6/83)	July 25, 1983.
83-676	1-Naphthalenesulfonic acid, 6-amino-5-hydroxy-	48 FR 20491 (5/6/83)	July 26, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazo-sulfophenylpyrazolone	48 FR 20491 (5/6/83)	July 26, 1983.
83-678	Generic name: Dibutyltin mercaptoacetate derivative	48 FR 20491 (5/6/83)	July 26, 1983.
83-679	Generic name: Alkyl ester of an epoxy acid	48 FR 20491 (5/6/83)	July 26, 1983.
83-680	Generic name: hydroxyethylaminomethylated tennin	48 FR 21370 (5/12/83)	July 27, 1983.
83-681	Generic name: carocyclic isocyanate	48 FR 21370 (5/12/83)	July 27, 1983.
83-682	Generic name: Carbocyclic isocyanate	48 FR 21370 (5/12783)	July 27, 1983.

III. 189 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAS BEEN ADDED TO THE INVENTORY.)

PMN No.	Identity and generic name	FR citation	Expiration date
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy) ethylsulfonyl) phenylazo)-1-naphthalene sulfonic acid disodium salt	47 FR 1021 (1/8/81)	Mar. 2, 1983.
83-25	Generic name: Substituted pyridine	47 FR 46373 (10/18/82)	Feb. 15, 1983.
83-129	Syncrude (full range, dewaxed dearsenited shale oil)	47 FR 54357 (12/2/82)	May 26, 1983.
83-130	Light straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-131	Heavy straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-132	Straight run middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-133	Straight run gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-134	Atmospheric tower residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-135	Vacuum tower condensate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-136	Light vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-137	Heavy vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-138	Vacuum Residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-139	Full range catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-140	Light catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-141	Catalytic cracked clarified oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-142	Catalytic cracked light olefins (shale oil)	47 FR 54357 (12/2/82)	Do.
83-143	Full range catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-144	Full range alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-145	Light hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-146	Heavy hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-147	Light hydrocracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-148	Light thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-149	Heavy thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-150	Light thermal cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-151	Heavy thermal cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-152	Coke (shale oil)	47 FR 54357 (12/2/82)	Do.
83-153	Sweetened naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-154	Hydrodesulfurized heavy naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-155	Hydrodesulfurized middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-156	Full range straight run naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-157	Straight run kerosine (shale oil)	47 FR 54357 (12/2/82)	Do.
83-158	Light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-159	Heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-160	Light catalytic cracked naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-161	Heavy catalytic cracked naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-162	Intermediate catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-163	Heavy catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-165	Light catalytic reformed naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-166	Heavy catalytic reformed naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-167	Catalytic reformer fractionator residue (shale oil)	47 FR 54357 (12/2/82)	Do.
83-168	Light alkylate naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-169	Heavy alkylate naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-170	Alkylate distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-171	Polymerization naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-172	Viscous polymer (shale oil)	47 FR 54357 (12/2/82)	Do.
83-173	Isomerization naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-174	Heavy hydrocracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-175	Hydrocracked residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-176	Sweetened middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-177	Normal paraffins (shale oil)	47 FR 54357 (12/2/82)	Do.
83-178	Sorption process raffinate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-179	Solvent refined light naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-180	Solvent refined heavy naptha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-181	Solvent refined middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-182	Solvent refined gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-183	Solvent refined light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-184	Solvent refined heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-185	Solvent deasphalted residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-186	Solvent decarbonized heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-187	Solvent refined residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-188	Solvent refined spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-189	Light napntha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-190	Heavy naphtha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-191	Middle distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-192	Gas oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-193	Light paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-194	Heavy paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-195	Residual oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-196	Heavy paraffinic distillate decarbonization raffinate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-197	Clay treated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-198	Clay treated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-199	Clay treated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-200	Chemically neutralized spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-201	Hydrotreated light naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-202	Hydrotreated heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-203	Hydrotreated light distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-204	Hydrotreated middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-205	Hydrotreated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-206	Hydrotreated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-207	Hydrotreated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-208	Hydrotreated microcrystalline wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-209	Hydrotreated vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-210	Hydrotreated residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-211	Solvenet dewaxed light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-212	Solvent dewaxed heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-213	Solvent dewaxed residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-214	Slack wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-215	Petrolatum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-216	Foots oil (shale oil)	47 FR 54357 (12/2/82)	Do.

III. 189 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAS BEEN ADDED TO THE INVENTORY.)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-217	Paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-218	Microcrystalline wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-219	Catalytic dewaxed naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-220	Catalytic dewaxed middle distillate (shale oil)	47 FR 54358 (12/2/82)	Do
83-221	Catalytic dewaxed light paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do
83-222	Catalytic dewaxed heavy paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do
83-223	Hydrodesulfurized light naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-224	Hydrosulfurized kerosine (shale oil)	47 FR 54358 (12/2/82)	Do
83-225	Hydrosulfurized gas oil (shale oil)	47 FR 54358 (12/2/82)	Do
83-226	Hydrosulfurized atmospheric tower residum (shale oil)	47 FR 54358 (12/2/82)	Do
83-227	Hydrosulfurized heavy vacuum gas oil (shale oil)	47 FR 54358 (12/2/82)	Do
83-228	Do	47 FR 54358 (12/2/82)	Do
83-229	Steam cracked residum (shale oil)	47 FR 54358 (12/2/82)	Do
83-230	Light aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-231	Medium aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-232	Heavy aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-233	Light aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-234	Heavy aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-235	Calcined coke (shale oil)	47 FR 54358 (12/2/82)	Do
83-237	Generic name: Substituted pyridine	47 FR 54358 (12/2/82)	Apr. 4, 1983.
83-389	Withdrawn as of May 23, 1983		
83-446	Iso hexadecyl isostearate	48 FR 6588 (2/14/83)	May 1, 1983.
83-447	Generic name: Polyvinyl alcohol derivative	48 FR 6589 (2/14/83)	Do.
83-448	2,6-bis(picrylamino)-3,5-dinitropyridine	48 FR 6589 (2/14/83)	Do.
83-449	2-ethyl-2-methyl butanoic acid	48 FR 6589 (2/14/83)	Do.
83-450	2,2-dimethyl pentanoic acid	48 FR 6589 (2/14/83)	Do.
83-451	Generic name: Disubstituted bis(phenylazo)4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt	48 FR 6589 (2/14/83)	May 2, 1983.
83-452	Generic name: Substituted 2-phenylazo-1-hydroxy-3-naphthaleneaufonic acid, metal complex, alkali metal salt	48 FR 6589 (2/14/83)	Do.
83-453	Generic name: Polymer of mixed alkane diols, alkane triol, propylene oxide, alkanoic acid, aliphatic isocyanate, and isophorone diisocyanate.	48 FR 6589 (2/14/83)	Do.
83-455	Generic name: Alkenoyl disubstituted cycloalkane	48 FR 6589 (2/14/83)	May 3, 1983.
83-456	Generic name: Substituted anthraquinone	48 FR 6589 (2/14/83)	Do.
83-457	N,N'-hexanediolyl-bis[3,4,5,6-tetrahydro-2(1H) pyrimidinone]	48 FR 7299 (2/18/83)	May 4, 1983.
83-458	Generci name: Substituted polyhydric alcohol	48 FR 7300 (2/18/83)	Do.
83-459	Generic name: Dialkyl dithiophosphate	48 FR 7300 (2/18/83)	Do.
83-460	Do	48 FR 7300 (2/18/83)	Do.
83-462	Generic name: Succinate ester amide	48 FR 7300 (2/18/83)	May 7, 1983.
83-463	Generic name: Amino aliphatic propoxylate	48 FR 7300 (2/18/83)	Do.
83-464	Generic name: Sodium sulfosuccinate of ethoxylated substituted phenol	48 FR 7300 (2/18/83)	Do.
83-465	Generic name: Metal polyisobutenylsuccinate	48 FR 7300 (2/18/83)	Do.
83-466	Generic name: Ether-olefin-sulfone terpolymer	48 FR 7300 (2/18/83)	Do.
83-467	Generic name: Alkyl cyclohexane carboxaldehyde	48 FR 7300 (2/18/83)	Do.
83-468	Complex sodium polyethylene glycolate salt	48 FR 7300 (2/18/83)	Do.
83-469	Generic name: Aromatic polyamide solution	48 FR 7300 (2/18/83)	May 8, 1983.
83-470	Generic name: Polymer of substituted acrylic ester and substituted acrylamide	48 FR 7300 (2/18/83)	Do.
83-471	Generic name: Metal salt of saccharin	48 FR 7301 (2/18/83)	Do.
83-472	2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5 (2H, 4H, 6H)-triyl) di-2,1-ethanediyl ester	48 FR 7301 (2/18/83)	Do.
83-473	2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5 (2H, 4H, 6H)-triyl) 2,1-ethanediyl ester	48 FR 7301 (2/18/83)	Do.
83-474	2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5 (2H, 4H, 6H)-triyl) tri-2,1-ethanediyl ester	48 FR 7301 (2/18/83)	Do.
83-475	Generic name: Chlorendic anhydride based alkyd polymer	48 FR 7301 (2/18/83)	Do.
83-476	Generic name: Polyether modified alkyd	48 FR 7301 (2/18/83)	Do.
83-477	Generic name: Aliphatic phosphite ester	48 FR 7301 (2/18/83)	May 9, 1983.
83-478	Generic name: Carboxylic acid derivatives of alkoxylated phenol derivatives and alkoxylated polyamines	48 FR 7301 (2/18/83)	Do.
83-480	Aminopropyl aminoethyl piperazine	48 FR 7301 (2/18/83)	May 10, 1983.
83-481	C^{11}-C^{15} alkoxy propylamino propylamine	48 FR 7301 (2/18/83)	Do.
83-482	Generic name: Modified polyester of a carbomoncyclic anhydride and a substituted alkanediol	48 FR 7301 (2/18/83)	Do.
83-483	Generic name: Mixed fatty acids; alkanopolyol; benzenecarboxylic acids polymer	48 FR 7302 (2/28/83)	Do.
83-484	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 8343 (2/28/83)	May 14, 1983.
83-485	Generic name: Alkyl branched alkanoate	48 FR 8343 (2/28/83)	Do.
83-487	Generic name: Alkyl sulfide	48 FR 8343 (2/28/83)	May 15, 1983.
83-488	Generic name: Polymer of acrylic ester and substituted acrylamide	48 FR 8344 (2/28/83)	Do.
83-489	Generic name: Styrene, acrylate methacrylate copolymer	48 FR 8344 (2/28/83)	Do.
83-490	Generic name: Modified coconut-phthalic-mixed polyol alkyd polymer	48 FR 8344 (2/28/83)	May 16, 1983.
83-491	Generic name: Sodium carboxyalkyl thioeulfate	48 FR 8344 (2/28/83)	May 17, 1983.
83-492	4-(4-methyl-1-1-piperidinyl)pyridine	48 FR 8344 (2/28/83)	Do.
83-493	Generic name: Alkoxylated alcohol compounds	48 FR 8344 (2/28/83)	Do.
83-494	Generic name: Propylene glycol compounds	48 FR 8344 (2/28/83)	Do.
83-495	Generic name: Metal complexed substituted aromatic salt	48 FR 9366 (3/4/83)	May 18, 1983.
83-496	Generic name: Polyester from a carbomonocyclic anhydride and an alkanediol	48 FR 9366 (3/4/83)	May 22, 1983.
83-497	Generic name: Reaction product of 1,3-benzene-diamine, hydroxybenzene, and oxo alkane with soldium sulfide	48 FR 9366 (3/4/83)	Do.
83-498	Generic name: Polymer of alkyl diamine and substituted oxiranes	48 FR 9366 (3/4/83)	Do.
83-499	Generic name: Reaction product of polyalkylene polyamines, phenols and polymeric epoxide derivatives	48 FR 9366 (3/4/83)	Do.
83-500	Do	48 FR 9366 (3/4/83)	Do.
83-501	Generic name: Modified rosin condensation product	48 FR 9366 (3/4/83)	Do.
83-502	Generic name: Aminoheterocyclyl branched alkane	48 FR 9366 (3/4/83)	Do.
83-503	Generic name: Substituted alkoxy silane	48 FR 9366 (3/4/83)	Do.
83-504	Generic name: Cyano carbocycliccarboxylate	48 FR 9366 (3/4/83)	Do.
83-505	Generic name: Polyester resin-saturated	48 FR 9367 (3/4/83)	Do.
83-506	Generic name: Modified acrylic polymer	48 FR 9367 (3/4/83)	May 23, 1983.
83-507	Generic name: Monocyclic sulfur derivative	48 FR 9367 (3/4/83)	Do.
83-508	Generic name: Substituted benzenesulfonic acid salt	48 FR 10468 (3/11/83)	May 25, 1983.
83-509	Generic name: Disubstituted benzotriazole	48 FR 10469 (3/11/83)	Do.
83-510	Generic name: Reaction product of an aromatic dianhydride with a substituted C_{6-14} alcohol and epichlorohydrin	48 FR 10469 (3/11/83)	Do.
83-511	Generic name: Polyester	48 FR 10469 (3/11/83)	Do.
83-512	Generic name: Polymer of amino-alkyl-carbomonocycle, hexamethylene diisocyanate, propylene oxide, alkane triol, alkanone, and disubstituted alkane diol.	48 FR 10469 (3/11/83)	Do.
83-513	Generic name: Polymer of isophorone diisocyanate, alkanoic acid, mixed alkane diols, alkane triol, oxo-heteropolycycle, and neopentyl glycol.	48 FR 10469 (3/11/83)	Do.
83-514	Generic name: Substituted indolium, salt	48 FR 10469 (3/11/83)	Do.
83-515	Generic name: Styrene co-polymer	48 FR 10469 (3/11/83)	Do.

III. 189 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Has Been Added to the Inventory.)—Continued

PMN No.	Identify and generic name	FR citation	Expiration date
83-516	Generic name: Aromatic polyester with substituted alkanes	48 FR 10469 (3/11/83)	Do.
83-517	Generic name: Polyurethane polymer, with an aromatic polyester	48 FR 10469 (3/11/83)	Do.
83-519	Generic name: Functionalized acrylic polymer	48 FR 10469 (3/11/83)	May 28, 1983.
83-520	Generic name: Polyester polycarboxylate salt	48 FR 10470 (3/11/83)	May 29, 1983.
83-521	Generic name: Carbomonocyclic ester	48 FR 10470 (3/11/83)	Do.
83-522	Generic name: Reaction product of succinic anhydride and 1,2-ethanediamine, N-[3-(trimethoxysilyl)propyl]	48 FR 10470 (3/11/83)	Do.
83-524	Generic name: Polymer of trisubstituted methane, alkyl phenol and substituted bis benzene derivative	48 FR 10470 (3/11/83)	Do.
83-526	Generic name: Isocyanate derived polyamide	48 FR 10470 (3/11/83)	Do.
83-527	Generic name: Sulfonaphtholazonaphthol, chromium complex	48 FR 10470 (3/11/83)	May 30, 1983.
83-528	Generic name: Dimer-trimer triglycidyl ester	48 FR 10470 (3/11/83)	Do.
83-529	Generic name: Dicarboxylic acid, polyamine polymer	48 FR 10470 (3/11/83)	Do.
83-530	Generic name: Disubstituted carbomonocyclic ester	48 FR 10470 (3/11/83)	Do.
83-531	Generic name: Polyoxo arylene triazino epoxy derivative	48 FR 10470 (3/11/83)	Do.

IV. 68 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacturer

PMN No.	Chemical identification	FR citation	Date of commencement
80-347	Generic name: Metal amine propanol complex	46 FR 11027 (2/5/81)	May 9, 1983.
80-365	Calcium sodium ethylenediamine tetrakis (methylene phosphate)	46 FR 5060 (1/19/81)	Nov. 1, 1983.
81-154	Generic name: Alkyl expoxide, reaction products with inorganic acid	46 FR 24683 (5/1/81)	May 16, 1983.
81-191	Acrylic acid, bisphenol A-epichlorohydrin resin, ethyl, acrylate, methyl methacrylate, polyvinyl butyral resin, and styrene polymer	46 FR 28005 (5/22/81)	June 1, 1983.
81-445	Polyglycidyl-m-xylenediamine	46 FR 47004 (9/23/81)	Apr. 26, 1983.
82-188	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-203	Generic name: Bisphenol A-epichlorohydrin resin-mixed acrylic polymer	47 FR 13037 (3/26/82)	May 18, 1983.
82-352	Generic name: Naphthalenedisulfonic acid, [[aminosulfohydroxy naphthalenyl]azo]-, trisodium salt	47 FR 22215 (5/21/82)	May 2, 1983.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Do.
82-354	Do.	47 FR 22215 (5/21/82)	Do.
82-368	Generic name: Alkenyl siloxane alkoxy terminated	47 FR 23552 (5/26/82)	Mar. thru Apr. 30, 1983.
82-399	C_{16}–$_{18}$-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichloroctylstannane	47 FR 25402 (6/11/82)	Apr. 17, 1983.
82-424	Polymer of: Hexanediol, dantocol, trimethylol propane, isophthalic acid, adipic acid	47 FR 26235 (6/17/82)	May 10, 1983.
82-522	Generic name: Diureido silane ester	47 FR 34188 (8/6/82)	Mar. thru Apr. 30, 1983.
82-531	Generic name: Organophosphorus compound	47 FR 34186 (8/6/82)	May 9, 1983.
82-532	Generic name: Do.	47 FR 34186 (8/6/82)	Apr. 25, 1983.
82-545	Polymer of hexane 1,6-diisocyanato-, homopolymer with 2-butanone, oxime	47 FR 35333 (8/13/82)	Feb. 15, 1983.
82-550	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid, salt	47 FR 35333 (8/13/82)	May 8, 1983.
82-551	Generic name: Do.	47 FR 35333 (8/13/82)	Do.
82-552	Generic name: Do.	47 FR 35334 (8/13/82)	Do.
82-553	Generic name: Do.	47 FR 35334 (8/13/82)	Do.
82-554	Generic name: Do.	47 FR 35334 (8/13/82)	Do.
82-555	Generic name: Do.	47 FR 35334 (8/13/82)	Do.
82-556	Generic name: Do.	47 FR 35334 (8/13/82)	Do.
82-633	Generic name: Fatty secondary amide	47 FR 39865 (9/10/82)	Do.
82-639	Generic name: Polyacrylate copolymer	47 FR 39865 (9/10/82)	May 10, 1983.
82-646	Generic name: Cobalt complex-[(hydroxynitro-phenyl-azo)-(substituted)phenyl pyrazolones], sodium salt	47 FR 41166 (9/17/82)	Jan. 27, 1983.
82-668	Poly(oxyl,2-ethanediyl) alpha-C_{12}–C_{15} alkoxy-omega methoxy	47 FR 42152 (9/24/82)	Apr. 25, 1983.
82-677	Generic name: Chromium complex of a substituted phenolazophenylpyrazolone	47 FR 43161 (9/30/82)	Apr. 28, 1983.
82-681	Generic name: Chromium complex of a sulfo-naphthylazo phenylpyrazolone	47 FR 43161 (9/30/82)	Do.
82-684	Generic name: Halogenated hydrocarbon	47 FR 43161 (9/30/82)	May 12, 1983.
83-686	Generic name: Disubstituted 1-naphthol	47 FR 43161 (9/30/82)	Jan. 1, 1983.
83-12	Generic name: 2-7-Naphthalenedisulfonic acid, 4-amino-3-[[4-[[4-[(2,4-diamino-5-methylphenyl) azo]phenyl]substituted] phenyl]azo]-5-hydroxy-6-(substituted phenyl)azo-, sodium salt.	47 FR 46372 (10/18/82)	Apr. 11, 1983.
83-53	Generic name: Cobalt complex of substituted phenolazophenylacetazotamide	47 FR 49073 (10/29/82)	Apr. 28, 1983.
83-54	Generic name: Iron complex of substituted phenolazoresorcinol	47 FR 49073 (10/29/82)	Do.
83-55	Generic name: Substituted alkanediol	47 FR 49073 (10/29/82)	Mar. 14, 1983.
83-58	Generic name: Bis(((substituted pyrazolyl)azo) substituted phenol)metallate and bis(((substituted pyrazolyl)azo) substituted phenol) methallate, inorganic salts.	47 FR 40973 (10/29/82)	Feb. 6, 1983.
83-60	Generic name: Metal complex of methyl-substituted-((substituted-hydroxyphenyl)azo)-oxo-dihydro-1H-pyrazole and substituted-((naphthyl)azo)-2-naphthol, and metal complex of methyl-substituted-((substituted-hydrox-yphenyl)azo)-oxo-dihydro-1H-pyrazole and substituted-((naphthyl)azo)-2-naphthol, inorganic salts.	47 FR 49074 (10/29/82)	Do.
83-72	Generic name: Benzoquinolinyl-sulfoindenedione	47 FR 50339 (11/5/82)	Jan. 25, 1982.
83-77	Generic name: Bis(((substituted propanyl)azo) substituted phenol)metallate, plus bis (((substituted propanyl)azo)substituted phenol) metallate, inorganic salts.	47 FR 52220 (11/19/82)	Feb. 6, 1983.
83-78	Generic name: Metal complex of ((substituted phenyl)azo)substituted phenol and ((aryl)azo) substituted phenol plus metal complex of ((substituted phenyl)azo) substituted phenol and ((aryl)azo) substituted phenol, inorganic salt.	47 FR 52220 (11/19/82)	Feb. 5, 1983.
83-79	Generic name: Metal complex of ((substituted phenyl)azo)naphthol and ((substituted naphthyl)azo)naphthol plus metal complex of ((substituted phenyl)azo)naphthol and (substituted naphthyl)azo)naphthol, inorganic salt.	47 FR 52221 (11/19/82)	Feb. 6, 1983.
83-80	Generic name: Bis(((aryl)azo)substituted phenol)metallate plus bis(((aryl)azo) substituted phenol)metallate, inorganic salts	47 FR 52221 (11/19/82)	Mar. 1, 1983.
83-81	Generic name: Metal complex of ((substituted phenyl)azo)-substituted phenol and ((substituted pyrazolyl)azo)-substituted-benzenesulfonic acid, plus metal complex of ((substituted phenyl)azo)substituted phenol and ((substituted pyrazolyl)azo) substituted-benzenesulfonic acid, inorganic salts.	47 FR 52221 (11/19/82)	Feb. 5, 1983.
83-82	Generic name: Bis(((substituted pyrazolyl)azo) benzoic acid)metallate plus bis(((substituted pyrazolyl)azo)benzoic acid)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-83	Generic name: Bis(((substituted aryl)azo)-substituted phenol)metallate, and bis(((substituted aryl)azo)-substituted phenol) metallate, inorganic salts.	47 FR 52221 (11/19/82)	Feb. 6, 1983.
83-84	Generic name: Bis((aryl)azo-substituted-phenol metallate, and bis(((aryl)azo)-substituted-phenol)metallate, inorganic salts	47 FR 52221 (11/19/82)	Do.
83-85	Generic name: Bis(((substituted aryl)azo)-substituted phenol)metallate, and bis(((substituted aryl)azo)-substituted phenol)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-120	Generic name: Reaction product of isomeric mixture of dioxorcarbopolycyclic amine with sulfur	47 FR 52224 (11/19/82)	May 6, 1983.
83-265	Generic name: Substituted alkyl polyalkylene oxy quaternary ammonium chloride compound	47 FR 55423 (12/9/82)	Apr. 18, 1983.
83-266	Generic name: Poly(oxyalkyldisubstituted silane) alkyl alkoxy-terminated, polymer with titanium alkoxide	47 FR 57333 (12/29/82)	Mar. thru Apr. 30, 1983.
83-328	Generic name: Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene	47 FR 72 (1/3/83)	Apr. 18, 1983.
83-355	Generic name: Substituted aromatic secondary naphthalene amine	47 FR 1820 (1/14/83)	May 2, 1983.
83-365	Generic name: Aromatic methylurea	47 FR 3045 (1/24/83)	Do.

IV. 68 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacturer—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
83-373	Generic name: Substituted polyurea	47 FR 3046 (1/24/83)	After May 26, 1983.
83-375	Generic name: Substituted benzene	47 FR 3046 (1/24/83)	May 2, 1983.
83-377	Generic name: Do.	47 FR 3046 (1/24/83)	Do.
83-424	Generic name: Primary hydrogenated alkyl amine and silicone polymer	47 FR 6396 (2/11/83)	Do.
83-429	Generic name: Thiacarbocyanine hydroxide, anhydrodisulfoalkyl trialkyl compound with trialkyl amine (1:1)	47 FR 6396 (2/11/83)	May 23, 1983.
83-437	Generic name: Reaction product of a polyhalogenated anhydride, maleic anhydride, alkylene glycol and amino alcohol	47 FR 6397 (2/11/83)	Apr. 26, 1983.
83-438	Generic name: Disubstituted 3-phenylazo-4-amino-5-hyroxy-2, 7-napthalenedisulfonic acid, alkali metal salt	47 FR 6397 (2/11/83)	Do.
83-451	Generic name: Disubstituted bis(phenylazo)4-amino-5-hydroxy-2, 7-naphthalenedisulfonic acid, alkali metal salt	47 FR 6589 (2/14/83)	May 3, 1983.
83-452	Generic name: Substituted 2-phenylazo-l-hydroxy-3-naphthalene-sulfonic acid, metal complex, alkali metal salt	47 FR 6589 (2/14/83)	Do.
83-458	Generic name: Substituted polyhydric alcohol	47 FR 7300 (2/18/83)	May 24, 1983.
83-472	Generic name: 2-propenoic acid, (2,4,6,-trioxo-1, 3, 5-triazine-1,3,5, (2H,4H,6H)-tryl); di-2,1-ethanediyl ester	47 FR 7301 (2/18/83)	End of May 1983.
83-473	Generic name: 2-propenoic acid, (2,4,6,-trioxo-1, 3, 5-triazine-1,3,5, (2H,4H,6H)-tryl); 2,1-ethanediyl ester	47 FR 7301 (2/18/83)	Do.
83-474	Generic name: 2-propenoic acid, (2,4,6,-trioxo-1, 3, 5-triazine-1,3,5, (2H,4H,6H)-tryl); tri-2,1-ethanediyl ester	47 FR 7301 (2/18/83)	Do.
83-477	Generic name: Aliphatic phosphite ester	47 FR 7301 (2/18/83)	May 10, 1983.

V. 36 Premanufacture Notices for Which Period Has Been Suspended

PMN No.	Identity and generic name	FR citation	suspend
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methy-butylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Do.	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methyl-hexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethyl-sulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6//81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyloxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-1-(3-sulfophenyl)-5-pyrazolone disodium salt	46 FR 55146 (11/6/81)	Do.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-678	Generic name: Chlorinated aromatic azo anthraquinone pigment	47 FR 43161 (9/30/82)	Nov. 22, 1982.
82-679	Generic name: Chlorinated aromatic azo pigment	47 FR 43161 (9/30/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylsted hydrocarbon	47 FR 48371 (10/18/82)	Oct. 22, 1982.
83-36	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47068 (10/22/82)	Dec. 27, 1982.
83-37	Do.	47 FR 47068 (10/22/82)	Do.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Jan. 28, 1983.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl)sulfonyl)ary)(azo), and monochlorotriazinyl amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Apr. 1, 1983.
83-333	Generic name: Reaction product of polycycle-sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-335	Generic name: ((Substituted phenyl)azo)naphthalenesulfonic acid, sodium slat	48 FR 73 (1/3/83)	Mar. 17, 1983.83-341
83-341	Generic name: 7-[4-[4-chloro-6-[3-[2-hydroxysulfonyloxy)ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 962 (1/7/83)	Mar. 21, 1983.
83-350	2-propoxyethyl acetate	48 FR 862 (1/7/83)	Do.
83-370	8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro [4,5]decane-2,4-dione	48 FR 3045 (1/24/83)	Apr. 15, 1983.
83-394	Generic name: Polyglycidyl amine	48 FR 5304 (2/4/83)	Apr. 23, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenylazo-	48 FR 5304 (2/4/83)	Apr. 19, 1983.
83-416	Generic name: Benzenedisulfonic acid, chloro-triazinyl-amino-dimethylphenylazo-sulfonaphthaleneazo	48 FR 5306 (2/4/83)	Apr. 13, 1983.
83-433	Generic name: Mono azo aromatic compound	48 FR 6397 (2/11/8)	Apr. 19, 1983.
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6397 (2/11/83)	Apr. 20, 1983.
83-454	Generic name: Acrylamide copolymer	48 FR 6589 (2/14/83)	Apr. 13, 1983.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25. 1983.
83-479	Generic name: Monoazo substituted aromatic	48 FR 7301 (2/18/83)	May 2, 1983.
83-486	Generic name: Zirconium propenoate, substituted	48 FR 8343 (2/28/83)	May 6, 1983.
83-518	1,1'[isopropylidenebis(6-hydroxy-m-phenylene)] bis[tetrahydiathiophenium hydroxide) bis (inner salt) tetrahydrate	48 FR 10469 (3/11/83)	May 27, 1983.
83-523	1,1'[isopropylidenebis(6-hydroxy-m-phenylene)] bis(tetrahydrothiophenium hydroxide) mixed salts	48 FR 10470 (3/11/83)	Do.
83-525	Generic name: Substituted benzindolium, salt	48 FR 10470 (3/11/83)	May 20, 1983.
83-532	Generic name: Glyceryl propoxy diacrylate	48 FR 10470 (3/11/83)	May 30, 1983.

V. 38 PREMANUFACTURE NOTICES FOR WHICH PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity and generic name	FR citation	suspend
83-543	Generic name: Polymer of diethylenetriamine and higher polyamines with dibasic esters, reacted with epichlorohydrin	48FR 11500 (3/18/83)	May 27, 1983.
83-601	Generic name: Halogenated alkene acid ester	48 FR 15181 (4/7/83)	April 20 1983.

[FR Doc. 17037 Filed 83; 8:45 am]
BILLING CODE 6560-50-M

Draft Health Assessment Notice for Hexachlorocyclopentadiene; Public Meeting

[ORD-FRL 2390]

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A peer review workshop will be held in Cincinnati, Ohio on June 29, 1983 to facilitate scientific and technical evaluation of the working draft of the Health Assessment Document for Hexachlorocyclopentadiene. This workshop will be held in room 120 of the A. W. Breidenbach Research Center, Cincinnati, Ohio, on Wednesday, June 29. It will begin at 8:30 a.m. and is expected to end at 4:30 pm. The entire day will be spent on reviewing the scientific content of the document, including chapters on production, uses, environmental fate and transport, exposure to aquatic life, vegetation and wildlife; further mammalian pharmacokinetics, toxic, mutagenic, teratogenic effects; and assessment of public health issues. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: David J. Reisman, Project Officer, Environmental Criteria and Assessment Office, Room 105, or Dr. Jerry F. Stara, Director, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone: 513/684-7573.

SUPPLEMENTARY INFORMATION: Subsequent to this workshop, the draft Health Assessment Document for Hexachlorocyclopentadiene will be revised and the External review Draft will be made available for public review and comment. There will be a further notice in the **Federal Register** announcing the availability of the External Review Draft for public review and ample opportunity for review and submission of written comments will be provided at that time. After receipt of all public comments, the SAB will hold a public meeting to review the document. An advance notice announcing the time and place for the SAB public meeting will be made in the **Federal Register.**

Persons wishing to attend the upcoming June 29 workshop as observers should contact David J. Reisman at the above address. Copies of the draft document to be discussed at the workshop will be provided at the meeting. Any observers wishing to make brief oral statements will have an opportunity to do so at the meeting.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

June 21, 1983.

[FR Doc. 83-17344 Filed 6-27-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Chase Communications, Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/state	File No.	MM Docket No.
A. James P. Chase, III., d/b/a Chase Communications Co.	Killeen, Tex.	BPH-810627AK	83-554.
B. Janie Kirkland, Keith Adams, James D. Shelton d/b/a Ask Communications.	do	BPH-820309AH	83-555.
C. Roy J. Smith, Euna E. Hardaway F. Beth Zeiss d/b/a Harker Heights Communications.	Harker Heights, Tex.	BPH-820415AK	83-556.
D. Elizabeth Malasic d/b/a Bell County Communications.	do	BPH-820415AU	83-557.
E. James R. Lindley, Danny R. Hurd, James D. Magill, Andrew D. Shaw d/b/a Harker Heights Broadcasting Company.	do	BPH-8204159G	83-558.
F. Killeen Communications, Inc.	Killeen, Tex.	BPH-820415BH	83-559.
G. STL Broadcasting Corporation.	Harker Heights, Tex.	BPH-820415AX	83-560.

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
307(b)	A,B,C,D,E,F,G.
Contingent Comparative	A,B,C,D,E,F,G.
Ultimate	A,B,C,D,E,F,G.
Air Hazard	E.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-17181 Filed 6-24-83; 8:45 am]
BILLING CODE 6712-01-M

North Georgia Television, Ltd., et al.; Hearings

In re application of: Juanita Haynes and Robert Tracy Cheatham, III d/b/a North Georgia Television, Ltd., Rome, Georgia, MM Docket No. 83-571, File No. BPCT-821227KE; Rome Television, Inc., Rome, Georgia, MM Docket No. 83-572, File No. BPCT-830111KF; Marilyn M. McMullan, Rome, Georgia, MM Docket No 83-573, File No. BPCT-830223KN; Community Broadcasting Network of North Georgia, Inc., Rome, Georgia, MM Docket No. 83-574, File No. BPCT-830223KW; For construction permit designating applications for consolidated hearing on stated issues.

Hearing Designation Order

Adopted: May 31, 1983.

Released: June 21, 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 Juanita Haynes and Robert Tracy Cheatham, III d/b/a, North Georgia Television, Ltd. (NGT), Rome, Television, Inc., Marilyn M. McMullan (McMullan), and Community Broadcasting Network of North Georgia (Community) for authority to construct a new commercial television station on Channel 14, Rome, Georgia.

2. Due to the adjaceny of Channel 14 to frequencies used by land mobile radio services, a Channel 14 permittee that inadequately suppresses its secondary emissions could cause interference to land mobile radio services. *See*, § 73.687(i)(1) of the Commission's Rules. Accordingly, the grant of a construction permit to any of the applicants will be conditioned to require the permittee to take adequate measures, prior to program test authority, to prevent interference to land mobile radio stations in the 460-470 MHz band.

3. The effective radiated visual power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contours, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

4. Since we have not received a final determination from the Federal Aviation Administration that the tower height and location proposed by McMullan and Community would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

5. The material submitted by Ms. McMullan does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 20 days from the date of release of this Order to review her financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to her financial qualifications. If the applicant cannot make the required certification, she shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

6. Ms. McMullan's application, as amended, indicates that construction of the station would constitute a major environmental action within the meaning of § 1.1305 of the Commission's Rules. The applicant, however, has not submitted an environmental narrative statement which contains all of the information required by § 1.1311 of the Rules. Ms. McMullan will, therefore, be required to submit to the presiding Administrative Law Judge, within 20 days of the date of release of this Order, an environmental narrative statement which complies with Section 1.1311 of the Commission's Rules.

7. Further, Ms. McMullan is a director of Toledo Family Television, Inc., an applicant (BPCT-810615KH) for a new television station in Toledo, Ohio. Although that application was dismissed out of hearing, *Memorandum Opinion and Order* in BC Docket 81-829, released February 9, 1983, an issue concerning a misrepresentation with respect to the availability of a transmitter site was unresolved. Since that issue was concerned with the applicant's basic qualifications to be a station licensee, we believe that an appropriate issue should be specified in this proceeding.

8. Section 73.636(a)(1) of the Commission's Rules states that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates or controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the FM station. Note 8 to the rule provides, *inter alia*, that applications for UHF stations will be treated on a case-by-case basis in order to determine whether common ownership, operation or control of the station in question would be in the public interest. Frank Favors, a 29 percent stockholder of Community, is a radio announcer and assistant programming director of WKCX(FM), Rome, Georgia. Accordingly, an issue will be specified to determine whether Mr. Favors' association with WKCX(FM), Rome, Georgia and his interest in Community's application is inconsistent with the rule; and if so, whether common ownership, operation or control of WKCX(FM) and the proposed televison station would be consistent with the public interest.

9. 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.

10. 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 areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

2. To determine, with respect to Marilyn M. McMullan and Community Broadcasting Network of North Georgia, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

3. To determine, with respect to Marilyn M. McMullan whether the misrepresentation issue specified against Toledo Family Television, Inc. in the *Memorandum Opinion and Order*, in BC Docket 81-829, released March 10, 1982, has any affect on Ms. McMullan basic or comparative qualifications to be a station licensee.

4. To determine, which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, with respect to Community, whether Mr. Frank Favors connection with WKCX(FM), Rome, Georgia and Community's application is inconsistent with § 73.636(a)(1) of the rule, and if so, whether common ownership, operation or control of WKCX(FM) and the proposed television station would be in the public interest.

6. To determine, in light of the evidence adduced pursuant to the

[1] Applicant has indicated that she is currently negotiating financing for the proposed station.

foregoing issues, which of the applications should be granted.

11. *It is further ordered,* That, in the event of a grant of any of the applications, the construction permit shall contain the following condition:

During equipment tests, authorized by § 73.1610 of the Commission's Rules, the permittee shall take adequate measures to identify and substantially eliminate objectionable interference which may be caused to existing land mobile radio facilities in the 460–470 MHz band. Documentation that objectionable interference will not be caused to existing land mobile radio facilities shall be submitted along with the application for license and the appropriate request for program test authority.

12. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with regard to issue 1.

13. *It is further ordered,* That within 20 days of the release of this Order, Marilyn M. McMullan shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the required certification cannot be made.

14. *It is further ordered,* That, Marilyn M. McMullan shall submit an environmental narrative statement which contains the information required by § 1.1311 of the Rules to the Presiding Administrative Law Judge within 20 days after this Order is released.

15. *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.

16. *It is further ordered,* That, the applicant 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.Q04

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division Mass Media Bureau.

[FR Doc. 83-17182 Filed 6-24-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-3844-7]

Availability of Finding of no Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-3844-7 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

The agreement is between the Port of Seattle and Harbor Island Marine Associates. It covers certain premises at terminal 102-West including the development of moorage and other marina activities at the leased premises.

The proposed development consists of a 70-ship marina with related upland facilities which eventually will include maintenance and repair facilities, parking and other activities ancillary to commercial and pleasure vessel moorage. Also included are marine fueling facilities which may also serve common carrier vessels. The developer has obtained an environmental Declaration of Nonsignificance from the City of Seattle Department of Construction dated September, 1982.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-17208 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2223]

Castle International Co. (Alberto Llona, D.B.A.); Order of Revocation

On June 13, 1983, Castle International Co. (Alberto Llona, d.b.a.), P.O. Box 45123, Los Angeles, CA 90045 requested the Commission to revoke his Independent Ocean Freight Forwarder License No. 2223.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2223 issued to Castle International Co. (Alberto Llona, d.b.a.), be revoked effective June 13, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Castle International Co. (Alberto Llona, d.b.a.)

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-17205 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2383-R]

Chalmers Shipping Co., Ltd.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Chalmers Shipping Co., Ltd., 15250 S. Broadway, P.O. Box 287, Harvey, IL 60426 was cancelled effective June 4, 1983.

By letter dated May 5, 1983, Chalmers Shipping Co., Ltd. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2383-R would be automatically revoked unless a valid surety bond was filed with the Commission.

Chalmers Shipping Co., Ltd. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2383-R be and is hereby revoked effective June 4, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2383-R issued to Chalmers Shipping Co., Ltd. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal**

Register and served upon Chalmers Shipping Co., Ltd.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-17206 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1432-R]

Charles A Tague, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unles a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Charles A. Tague, Inc. Suite 1001, 5th & Chestnut Streets, Philadelphia, PA 19106 was cancelled effective June 9, 1983.

By letter dated May 26, 1983, Charles A. Tague, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1432-R would be automatically revoked unless a valid surety bond was filed with the Commission.

Charles A. Tague, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1432-R be and is hereby revoked effective June 9, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1432-R issued to Charles A. Tague, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Charles A. Tague, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-17202 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1447]

Gonzalo Garcia d.b.a. Atlas International; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Gonzalo Garcia d.b.a. Atlas International, 2406 N.W. 72nd Avenue, Miami, FL 33122 was cancelled effective June 9, 1983.

By letter dated May 26, 1983, Gonzalo Garcia dba Atlas International was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1447 would be automatically revoked unless a valid surety bond was filed with the Commission.

Gonzalo Garcia dba Atlas International has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1447 be and is hereby revoked effective June 9, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1447 issued to Gonzalo Garcia dba Atlas International be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Gonzalo Garcia dba Atlas International.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-17201 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2521]

Hawk World International Corp; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Hawk World International Corp., P.O. Box 61483, DFW Airport, TX 75261-0483 was cancelled effective June 11, 1983.

By letter dated May 24, 1983, Hawk World International Corp. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2521 would be automatically revoked unless a valid surety bond was filed with the Commission.

Hawk World International has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2521 be and is hereby revoked effective June 11, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2521 issued to Hawk World International be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Hawk World International Corp.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-17204 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Ahmed G. Singer d.b.a. New York Forwarding Services, 744 Broad Street, Suite 1324, Newark, NJ 07102

Suzanne's Forwarding Corporation, 7175 Nova Drive, Davie, FL 33317. Officers: Julio C. Tayo, President/Secretary/Director, Susan R. Tayo, Treasurer/Director

Alfomar International, Inc., 9900 N.W. 107th Avenue, Bay 40, Hialeah, FL 33016. Officers: Esther M. Martinez, President, Manuel Alfonsin, Secretary

All-Points Forwarding, Inc., 2305 N.W. 107th Avenue, Suite No. 9, Miami, FL 33172. Officers: German Leiva, President/Director, Maria Camila Leiva, Executive Vice President/Director, Thomas Schwartz, Secretary, Richard C. Hanks, Treasurer

By the Federal Maritime Commission.

Dated: June 22, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-17207 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1507-R]

Ivory, Inc. d.b.a. Ivory Vanlines; Order of Revocation

On June 10, 1983, Ivory, Inc. d.b.a. Ivory Vanlines, 1326 N.W. Second Avenue, Boca Raton, Florida 33432 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1507-R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1507-R issued to Ivory, Inc. d.b.a. Ivory Vanlines, be revoked effective June 10, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1507-R issued to Ivory, Inc. d.b.a. Ivory Vanlines be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Ivory, Inc. d.b.a. Ivory Vanlines.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-17203 Filed 6-24-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Independence Bank Group, Inc., et al.

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 Chicago. (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Independence Bank Group, Inc.*, Waukesha, Wisconsin; to acquire 100 percent of the voting shares of The Brown National Bank of Kenosha, Kenosha, Wisconsin. Comments on this application must be received not later than July 20, 1983.

Board of Governors of the Federal Reserve System, June 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17130 Filed 6-24-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Horizon Bancorp et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identify 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. *Horizon Bancorp*, Morristown, New Jersey (financing, mortgage banking and leasing activities; Michigan): To engage through its subsidiary, Horizon Creditcorp, in making or acquiring, for its own account or for the account of others, loans or other extensions of credit such as would be made by a mortgage, finance, credit card or factoring company and leasing activities with respect to personal property or acting as broker or advisor in leasing such property provided such leases meet the criteria of section 225.4(a)(6) of Regulation Y. Such activities will be conducted from an office located in Holland, Michigan, serving the State of Michigan. Comments on this application must be received not later than July 21, 1983.

2. *Manufacturers Hanover Corporation*, New York, New York (commercial finance activities; Ohio; North Carolina; Oklahoma; Florida; Georgia; Illinois; Washington; New Jersey; Massachusetts; Maryland; Louisiana; Kentucky; Colorado; California; Arizona; New Mexico; Connecticut; Tennessee; South Carolina; Alabama; Oregon; Virginia; Kansas): Applies for approval to engage through its wholly owned indirect subsidiary, Manufacturers Hanover Financial Services, Inc. ("MHFS") (formerly Manufacturers Hanover Consumer Services, Inc.), in the activities of making, acquiring, and servicing commercial loans and other extensions of credit. The proposed activities would be conducted from offices in Columbus and Cincinnati Ohio; Charlotte, North Carolina; Virginia Beach and Annandale Virginia; Tulsa, Oklahoma; Altamonte Springs, Ft. Lauderdale and Tampa, Florida; Atlanta, Georgia; Oak Brook, Illinois; Bellevue, Washington; Linwood, New Jersey; Burlington, Massachusetts; Bethesda, Maryland; Metairie, and Baton Rouge, Louisiana; Louisville, Kentucky; Colorado Springs and Denver, Colorado; Walnut Creek, San Diego, Sacramento and Downey, California; Tucson and Phoenix (2 offices) Arizona; Albuquerque, New Mexico; West Hartford and Norwalk Connecticut; Memphis, Tennessee; North Charleston, South Carolina; Homewood, Huntsville and Montgomery, Alabama; Portland, Orgon; and Overland Park, Kansas. Each office would serve the entire State

in which it is located. Comments on this application must be received not later than July 18, 1983.

3. *Norstar Bancorp, Inc.*, Albany, New York (personal property leasing activities; Northeastern United States): To expand the service area of its subsidiary, Norstar Leasing Services, Inc., in the making of leases of personal property and equipment for commercial and consumer use and to act as agent, broker or advisor in leasing such property. These activities would be expanded to include (in addition to activities presently conducted in certain areas of New York) the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont. These states would be served from an office located in Albany, New York. Comments on this application must be received not later than July 21, 1983.

4. *Norstar Bancorp, Inc.*, Albany, New York (information and data processing services; Maine, New York): To expand the geographic area served by its subsidiary, Norstar Data Services, Inc., in providing information and data processing services for the internal operations and needs of Norstar Bancorp Inc. and its subsidiaries. These activities would be conducted in the States of Maine and New York (in addition to activities presently conducted within certain areas of New York) from an office located in Albany, New York. Comments on this application must be received not later than July 21, 1983.

5. *Norstar Bancorp, Inc.*, Albany, New York (motor vehicle leasing activities; northeastern United States): To expand the geographic area served by its indirect subsidiary, Norstar Auto Lease Inc., in the making of motor vehicle leases for commercial and consumer use and to act as agent, broker or advisor in leasing such property. These activities would be expanded to include (in addition to activities presently conducted in certain areas of New York) the states of Connecticut, Maine, Massachusetts, New Hamshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont. These states would be served by an office located in Albany, New York. comments on this application must be received not later than July 21, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp.*, Green Bay, Wisconsin (mortgage loans; northeastern Wisconsin): To engage, through its subsidiary, Associated Mortgage, Inc., in making or acquiring, for its own account or for the account of others, loans and other extensions of credit, such as would be made by a mortgage or finance company, including commercial and residential real estate mortgages. This activity would be conducted from an office located in Appleton, Wisconsin, and would serve the counties of Outagamie, Winnebago, Fond du Lac, Calumet, Brown, Waupaca, Waushara, Green Lake and Dodge, all in Wisconsin. Comments on this application must be received not later than July 18, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation*, Albuquerque, New Mexico (mortgage banking activities; New Mexico and Texas): To engage, through its subsidiary, First City Mortgage Company, in mortgage banking activities including the originations, selling and servicing of real estate mortgage loans for its own account and the accounts of others. These activities would be conducted from offices located in Artesia, Belen, Farmington, Las Cruces, Rio Rancho, and Santa Fe, New Mexico, and would serve the State of New Mexico and the western part of Texas. Comments on this application must be received not later than July 21, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (financing and credit-related insurance activities; New York): To engage through its subsidiaries, Security Pacific Finance Corp. and SPF Credit Services, Inc. in making or acquiring, for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life, credit accident and health and credit property insurance, such insurance activities being permitted pursuant to Section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from offices of Security Pacific Finance Corp. and SPF Credit Services, Inc. located in Glens Falls, New York, serving the State of New York. Comments on this application must be received not later than July 21, 1983.

Board of Governors of the Federal Reserve System, June 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17131 Filed 6-24-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Arranging of Equity Financing; European American Bancorp

European American Bancorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage, through its subsidiary, Dorman & Wilson, Inc., White Plains, New York, in the activity of arranging equity financing for income producing real property with institutional and sophisticated individual investors. These activities would be performed from offices of Applicant's subsidiary in White Plains and Jericho, New York, Parsipanny, New Jersey and Stamford, Connecticut, and the geographic area to be served is the United States.

Although arranging equity financing has not been added to the list of permissible activities specified by the Board in § 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g., Trust Company of Georgia*, 69 *Federal Reserve Bulletin* 225 (1983).

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 outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than July 21, 1983.

Board of Governors of the Federal Reserve System, June 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17132 Filed 6-24-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Bennett Bancorporation et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 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 Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bennett Bancorporation*, Bennett, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Bennett National Bank, Bennett, Colorado, a de novo bank. Comments on this application must be received not later than July 20, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *CG Bancorp*, Cottage Grove, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of The Cottage Grove Bank, Cottage Grove, Oregon. Comments on this application must be received not later than July 19, 1983.

Board of Governors of the Federal Reserve System, June 21, 1983.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 83-17129 Filed 6-24-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements for Behavioral Risk Factor Surveillance Systems; Program Announcement—Availability of Funds

The Centers for Disease Control announces the availability of funds for cooperative agreements for Behavioral Risk Factor Surveillance Systems. These cooperative agreements are authorized by Section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended, Catalog of Federal Domestic Assistance number 13.283.

The objective of these cooperative agreement programs is to assist States in implementing behavioral risk factor surveillance systems to target risk reduction efforts, monitor progress in the prevalence of risk factors and related disease, and assess the impact of health program intervention in resources utilization on the risk-related behaviors. The official health agencies of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa are eligible to apply for a cooperative agreement. Applicants must establish and maintain surveillance of behavioral risk factors associated with major causes of premature morbidity and mortality, establish a framework for development and coordination of a comprehensive system, and adhere to procedures for insuring accurate and uniform information.

It is estimated that $110,000 will be available in Fiscal Year 1983 for support of approximately 10 cooperative agreements. Cooperative agreements for behavioral risk factor surveillance systems will be awarded with priorities for States having experience in collecting and analyzing behavioral risk factor prevalence information using in-house staff and commitment to continue the surveillance system at State expense in future years.

Programs are funded for a 12-month budget period and a 3-year project period. Diminishing continuation awards (i.e., approximately $9,000 the second year and $6,500 the third year) within the project period will be made on the basis of satisfactory progress in meeting program objectives. Funding estimates outlined above are subject to change. OMB approval under the Paperwork Reduction Act has been requested for the surveillance system.

During Fiscal Year 1983, funding criteria will include the following factors:

1. Relevance of the proposal to the scope and objective provided in the Request for Application.
2. Soundness in describing how the behavioral risk factor surveillance system will be planned, implemented, and managed.
3. Degree of prior experience with collecting and analyzing risk factor prevalence information.
4. Desired or anticipated impact on State or local programs.
5. Procedures for assuring uniformity in data compilation and designing and implementing quality control procedures.
6. Capability of the applicant to carry out the tasks involved in the risk factor surveillance program.
7. Appropriateness of the requested budget relative to the work proposed.
8. Willingness of the applicant's agency to continue the system at State expense after Federal funding is discontinued.
9. Assurance that uniform, standard data items will be used and that sufficient flexibility will be maintained so that problems of State and national interest can be addressed periodically.

There will be one annual review cycle with a cut-off date of August 1 of each calendar year. The original and two copies of the application must be submitted to the addressee in 1.a. below on or before 4:30 p.m. (e.d.t.) on August 1, 1983. Applicants may meet the deadline by either delivering or mailing the application on or before that date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Rd., N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants must be cautioned to request a legible U.S.

Postal Service postmark or to use U.S. Postal Service express mail, certified mail, or registered mail, and to obtain a legible dated mailing reciept from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received at the place specified in paragraph 1.a. above before close of business on or before the deadline date (4:30 p.m. e.d.t., August 1, 1983).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications. In that event, the application will not be considered in the current competition.

Applications are subject to review as governed by OMB Circular A-95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974.

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, at the address in paragraph 1.a. above, telephone (404) 262-6575, or FTS 236-6575. Technical assistance may be obtained from Dr. James S. Marks, Center for Heath Promotion and Education, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-3137, or FTS 236-3137.

Dated: June 16, 1983.

William C. Watson, Jr.,

Acting Director, CDC.

[FR Doc. 83-17238 Filed 6-24-83; 8:45 am]

BILLING CODE 4160-18-M

Office of Child Support Enforcement

Child Support Enforcement Research and Demonstration Grants; Availability of Fiscal Year 1983 Grant Funds

The Director of the Office of Child Support Enforcement (OCSE) gives notice of the availability of fiscal year 1983 funds for child support enforcement research and demonstration (R&D) grants. Funding for grants is authorized under Section 1110 of the Social Security Act.

The closing date for fiscal year 1983 requests for grants will be August 12, 1983.

Program Purpose

Grants funded by OCSE are for research and demonstration projects which will add to existing knowledge and improvements of new methods and techniques for the planning, management, coordination and delivery of child support enforcement activities related to the eligible population.

Program Goals

In general, OCSE intends to support the following types of projects:

(1) Those which develop and demonstrate new performance assessment mechanisms, administrative procedures, and technological innovations for improving the effectiveness ans efficiency of child support enforcement at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the child support enforcement programs.

(4) Those which develop and demonstrate more effective linkages between child support enforcement programs and related programs such as Aid to Families With Dependent Children (AFDC), medical assistance, unemployment compensation, etc.

Program Priorities for Research and Demonstration Funding

Research and demonstration projects will be directed toward priorities derived from State administration and program issues. OCSE has identified certain specific priority projects, listed below, which reflect these administrative program issues.

Applicants may also submit proposals for projects not specifically identified in this announcement but which are relevant to the Social Security Administration (SSA) and OCSE program goals. These proposals will be designated as nonpriority but will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects.

Priority Projects

Fiscal Year 1983 Projects

Estimate of National Collections Potential (OCSE 83-1). The potential of AFDC and non-AFDC child support collections is an important issue to OCSE. Many of OCSE's current strategies are based on the belief that there is potential for increasing collections. In addition, in assessing the performance of individual IV-D programs, it is helpful to estimate how much the program could reasonably be expected to collect.

The purpose of this study is to quantify the national collections potential using ability to pay as the basis. A number of data sources may prove useful for this. Census data may present interesting information concerning the economics of child support and alimony. In addition, IRS data may prove helpful in estimating ability to pay and collections potential. Also, information should be examined from recent reports done in Wisconsin and New York on absent parents' ability to pay. Using these and other sources, the study should estimate potential AFDC and non-AFDC child support collections on a national basis or an optimal collection target for the national Child Support Enforcement program. The activity will also involve the study of the impact of various economic measures on potential collections. The relationship of inflation, unemployment, disposable income, etc. to potential collections should be examined. How these and other economic indicators can be linked to potential collections and how the estimates should be adjusted for them should be studied.

It is anticipated that one grant will be awarded for 12 months not to exceed $150,000.

Models for Assessing and Updating Child Support Award Levels (OCSE 83-2). This activity will assess the current State practices concerning the setting of the child support award level, assess the legal and administrative climate for improving such methods, and provide alternatives for improving the setting of such awards. This activity will also assess current State practices for updating child support awards in light of changed circumstances (i.e., earnings and costs of child rearing). The activity should include a review of the legal and administrative climate and impediments and also evaluate several alternative models to assist States in securing more more automatic or easier changes in award levels over time. In addition, this grant will estimate the potential AFDC and non-AFDC child support collections on a national basis to be derived from application of the alternative models.

It is anticipated that one grant will be awarded for two years not to exceed $190,000. An initial award of $90,000 will be issued for a 12-month period and a subsequent grant of $100,000 will be awarded for an additional 12 months depending upon the availability of fiscal year appropriations and satisfactory completion of the initial year.

Development of Standards for Parentage Testing Laboratories (OCSE

83–3). This activity involves the development of acceptable laboratory standards for procedures to perform genetic parentage tests and the certification of laboratories who wish to conduct IV–D related parentage tests and receive Federal monies as a result. Standards should be established for HLA tests, serum protein and red cell enzyme tests, and red cell antigen tests, at a minimum. In addition, standards shall be established for the calculation of the estimate of the inclusion probability of the alleged fathers. Minimum standards shall be established for chain of evidence and custody of samples.

The standards proposed will be reviewed and subject to approval by an independent advisory panel composed of experts in the field. Once approval of the standards is obtained, the grantee will begin to certify laboratories which wish to receive certification to perform IV–D genetic parentage testing. The labs must be certified as being proficient in all areas as determined by the approved standards.

The grantee will develop certification procedures which include documentation of: laboratory procedures in HLA testing and red cell testing; reagents used and documentation of their sources; number of HLA/red cell tests performed per year; quality control measures utilized; level of supervision of testing; qualifications of person(s) performing tests and/or signing reports. If the laboratory cannot be immediately certified, the grantee will provide technical assistance, if requested, in an attempt to improve the laboratory procedures to certifiable levels.

It is anticipated that one grant not to exceed $110,000 will be awarded for two years in duration. The initial award will be for up to $60,000 for a 12-month period. A subsequent grant of $50,000 will be awarded for an additional 12 months depending upon satisfactory performance of the initial year and the availability of fiscal year appropriations. The first year involves both the development of the certification criteria and beginning certifications. The second year of funding will involve the continued certification of laboratories and providing needed technical assistance.

Effects of Child Custody Arrangements on Child Support Payments by Absent Parents (OCSE 83–4). This activity will include a study and assessment of the incidences and trends of various types of custody awards and practices, including joint custody, the legal and adminstrative factors relating to such trends, and the overall impact of custody awards on the size and payment of support awards. Tasks will include conducting a literature survey and interviewing key, knowledgeable individuals and officials in the field. In addition, there will be an empirical, detailed study in sites in three States which will involve intensive interviewing of welfare and CSE officials, legal reviews, AFDC, IB–D and court records checks, and recipients interviews in order to ascertain the impact of custody awards on award levels and payment histories. It is anticipated that one grant will be awarded for $125,000 not to exceed 12 months in duration.

Eligible Applicants

Any State, public, or nonprofit organization or agency may apply for a grant under the Section 1110 authority.

Availability of Funds

It is anticipated that approximately four new grant awards will be made pursuant to this annoucement in FY 1983. Anticipated amounts are:

Fiscal Years 1983 Projects

OCSE—83–1 (Estimate of National Collections Potential). It is anticipated that one grant for one year will be awarded for up to $150,000.

OCSE—83–2 (Models for Assessing and Updating Child Support Award Levels). It is anticipated that one grant for up to 24 months will be awarded. A total of $90,000 will be available during the initial 12-month period. An additional grant will be subsequently awarded for an additional 12 months in the amount of $100,000 contingent upon satisfactory performance and the availability of fiscal year appropriations.

OCSE—83–3 (Development of Standards for Parentage Testing Laboratories). It is anticipated that one grant for up to 24 months will be awarded. A total of $60,000 will be available for the first year. An additional 12-month grant will be subsequently awarded in the amount of $50,000, contingent upon satisifactory performance and the availability of fiscal year appropriations.

OCSE—83–4 (Study of Effect of Child Custody Arrangements on Child Support Payments by Absent Parents). It is anticipated that one grant will be awarded for up to $125,000 and one year in duration.

Receipient Share of the Project Costs

Applicants for grants are expected to contribute some portion of the total cost of the activity in order to receive consideration for funding. Generally, 5 percent of the total costs of the project is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

The Application Process

1. *Availability of application forms.* Application Kits which contain the prescribed application forms and supplemental descriptive information on the priority projects of the Office of Child Support Enforcement are available from: Social Security Administration, Divisions of Contracts and Grants Management, OMBP, Grants Management Branch, 1–C–1, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (303) 594–0284, Lawrence H. Pullen, Chief, Grants Management Branch.

2. *Application submission.* To be considered for a grant award, all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency or organization and to assume for the agency or organization the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the Application form SSA–96, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (OCSE–83–1, etc.) for which the application is to compete. If the application is not submitted in response to a priority project, indicate "nonpriority".

3. *Application consideration.* Applications are initially screened for relevance to the interests of OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three experts. Written assessment of each application is made.

4. *Application approval.* Following approval of the applications selected for funding, financial assistance wards will be issued within limits of Federal funds available. The FY 83 grant awards will be issued in September 1983. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the budget period for which support is given, the total project period for which support is contemplated, and the total grantee participation.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria.

1. *Research or Demonstration Design.* Understanding the scope of the work statement and the proposed technical approach to the requirement. This includes clarity of goals and objectives. (30 points)

2. *Knowledge.* Knowledge of the field, literature, and background presentation material. Assurance of timely and acceptable performance. (10 points)

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Are the workhour effort and types of workpower to complete the project reasonable? (15 points)

4. *Experience.* Prior experience and/or new approaches or ideas in the branch of the technology or field involved. (10 points)

5. *Relevance.* Relevance of proposal to HHS priorities and goals; and to the purposes of these grants. (25 points)

6. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. Specificity and adequacy of the budget for these projects. Are costs reasonable and adequately described considering the anticipated results? Availability of necessary facilities, equipment, convenient location, etc. (10 points)

Closing Dates and Times

For fiscal year 1983 projects the closing date will be August 12, 1983.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, 1–C–1 Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207.

Applications must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to be received, on time, if sent by first class mail (express, registered, or certified) not later than the closing date, as evidenced by a legible U.S. Postal Service postmark. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any other means except by mailing first class through the U.S. Postal Service shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Applications which are not received on time will not be considered for funding.

A–95 Notification Process. This program is not covered by the requirements of OMB Circular A–95. (Federal Domestic Assistance Catalog number—13.812)

Dated: June 22, 1983.

John A. Svahn

Director, Office of Child Support Enforcement.

[FR Doc. 83–17310 Filed 6–24–83; 10:05 am]

BILLING CODE 4190–11–M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the the safety, clinical effectiveness, appropriateness, and use of hyperbaric oxygen therapy for the treatment of: (1) Acute cerebral edema; (2) chronic peripheral vascular insufficiency and acute peripheral arterial insufficiency; (3) acute traumatic peripheral ischemia; (4) crush injuries and suturing of severed limbs. Specifically, we are interested in the medical indications for the use of this procedure and whether it has significant advantages when compared to other conventional treatments for these indications.

For the purposes of this announcement, hyperbaric oxygen therapy is defined as the exposure of the patient to intermittent, short-term, high dose oxygen inhalation under elevated barometric conditions applied in either large multiplace pressure chambers or in monoplace chambers designed for a single patient.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy.

Any person or group wishing to provide OHTA with information relevant to these assessments should do so in writing no later than September 15, 1983, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1970 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Bette L. Lemperle, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3–10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Ms. Lemperle, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: June 16, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83–17184 Filed 6–24–83; 8:45 am]

BILLING CODE 4160–17–M

Vital and Health Statistics National Committee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–643), notice is hereby given that the Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended, (42 U.S.C. 242(k)), will convene on Thursday, July 14, 1983, at 9:00 a.m. and Friday, July 15, at 9:00 a.m. in Room 729G of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Subcommittee will hear presentations from experts bearing on several critical issues in disease classification, medical nomenclature, automated coding systems, and diagnostic related groups.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West

Highway, Hyattsville, Maryland 20782, telephone 301–436–7122.

Dated: June 17, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-17185 Filed 6-24-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19154-12]

Alaska Native Claims Selection; NANA Regional Corp., Inc.

In accordance with Departmental Regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc. for approximately 22,515 acres. The lands inolved are within the Kateel River Meridian, Alaska:

T. 20 N., R. 8 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until July 27, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752.

Linda A. Brooks,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-17199 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14874-A thru F-14874-J]

Alaska Native Claims Selection; NANA Regional Corp., Inc., et al.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., Successor in Interest to Katyaak Corporation (Kiana), for approximately 105,195 acres. The lands involved are within the Kateel River Meridian, Alaska:

T. 18 N.	R. 6 W.
T. 19 N.	R. 6 W.
T. 17 N.	R. 7 W.
T. 18 N.	R. 7 W.
T. 20 N.	R. 7 W.
T. 17 N.	R. 8 W.
T. 18 N.	R. 8 W.
T. 19 N.	R. 8 W.
T. 18 N.	R. 9 W.
T. 20 N.	R. 9 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until July 27, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: NANA Regional Corporation, Inc., Successor in Interest to Katyaak

Corporation, P.O. Box 49, Kotzebue, Alaska 99752.

Linda A. Brooks,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-17200 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

[U-29248]

Termination of Proposed Withdrawal and Reservation of Lands; Utah

Notice of a proposed withdrawal application by the Bureau of Land Management was published as Federal Register Document 78-32043 on page 53063-4 on November 15, 1978. This application has been cancelled. Pursuant to the regulations contained in 43 CFR 2310.1-4, the segregative effect of the lands involved, 1,125.60 acres, will be terminated at 8:00 a.m. on July 18, 1983. The lands involved are described as follows:

Salt Lake Meridian, Utah

T. 41 S., R. 14 W.,
Sec. 14, W½NW¼, NW¼SW¼;
Sec. 15, All;
Sec. 22, W½NE¼, NW¼, N½SW¼, NW¼SE¼.

Dated: June 2, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-17164 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

Competitive Coal Leasing—Fort Union Federal Coal Production Region: Qualified Surface Owner Consents; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of Notice of Filing deadline for qualified surface owner consents, Fort Union Federal Coal Production Region.

SUMMARY: This document corrects the Notice previously published at 48 FR 26897 and 26898 on June 10, 1983, by adding the South Wibau-Beach tract to the list of tracts shown under Supplementary Information. The South Wibaux-Beach tract was inadvertently omitted.

Dated: June 21, 1983.

Kannon Richards,

Acting State Director

[FR Doc.83-17183 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board (Susanville, California); Meeting

Notice is hereby given in accordance with Pub. L. 94-579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on July 14, 1983.

The meeting will begin at 10:00 a.m. at the Forest Service Engineering Building Conference Room, 1800 Main Street, Susanville, California.

The agenda for the meeting will include discussion of Water Rights on Public Lands.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. 1090, Susanville, California 96130, by July 5, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes for the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: June 17, 1983.

C. Rex Cleary,

District Manager.

[FR Doc. 83-17216 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

Lakeview District; Designation of Special Management Areas

Lakeview District, Bureau of Land Managment, has designated through the planning process the following special management areas. The areas and the special management required to protect the resource values and natural system within were developed in three stages through public participation in the High Desert Managment Framework Plan (MFP). The first stage was during 1979 and 1980 when the public was asked to provide suggestions for consideration in the MFP. The second stage in 1980 was when public comment was sought on proposed management practices. The third stage was in the 1981 Lakeview Grazing Management EIS. The District Manager has made his decisions based on the MFP which have been concurred with by the Oregon State Director. This notice is the District Manager's decision to designate the areas as special managment areas and to provide special management as described in the MFP.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACEC'S)

	Acres
Lost Forest-Sand Dunes-Fossil Lake	30,000
Devels Garden	29,640

The general location of these areas are within the High Desert Resource Area of the Lakeview District. The specific location and description of the resource values and special management attention to protect the values are shown in the MPF and are available for inspection in the Lakeview District Office.

Dated: June 17, 1983.

Dick Harlow,

Associate District Manager.

[FR Doc. 83-17215 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

[M 21435]

Montana; Partial Termination of Proposed Withdrawal and Reservation of Land

June 20, 1983.

The Forest Service, United States Department of Agriculture, filed an application for withdrawal of the following described land from operation of the public land laws, including location and entry under the mining laws. The Notice of Proposed Withdrawal was published in the **Federal Register** on June 1, 1972, Volume 37, No. 106, Page 10964, and republished on August 26, 1977, Volume 42, No. 166, page 43132. The applicant agency has cancelled its application in part as to the following:

Principal Meridian

Deer Lodge National Forest

Rock Creek Spike Camp,
T. 6 N., R. 7 W.,
Sec. 20, lot 4 and NE¼NW¼SE¼.

Total area 47.54 acres in Jefferson County.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), at 8 a.m. on August 6, 1983, such lands will be relieved of the segregative effect of the above mentioned application.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-17166 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

Michigan; Availability of Map of Public Lands and Minerals

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of BLM Map of public Lands and Minerals.

Notice is hereby given that a new Bureau of Land Management (BLM) map showing the location of Public lands and Federal mineral rights in the Benton Harbor, Michigan area, is now available to the public. The map, prepared as a result of a Bureau-wide program to map areas of mineral interests, is published at the scale of 1:100,000 (one centimeter = one kilometer) in a format of 1° longitude by 30' latitude (34 x 60 miles). Maps are sold for $3.25 each.

The new BLM map is part of a series of BLM maps which cover selected areas of the three Lake States. BLM maps covering northern Minnesota, northeastern Wisconsin, and western Upper Michigan have already been printed and are available to the public. Additional maps covering northwestern Wisconsin and Lower Michigan will be published in the future.

For further information and/or a BLM map index, contact the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 235-2840. Until July 29, 1983, information on BLM maps will also be available at the Bureau of Land Management, Duluth Field Office, 125 Federal Building, Duluth, Minnesota 55802, telephone (218) 727-6692. The Duluth Field Office will close permanently on July 29, 1983. Beginning August 1, 1983, information on BLM maps will be available from the Bureau of Land Management, Milwaukee District Office, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-17313 Filed 6-24-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Barrow Arch, Lease Offering (February 1985) Call for Information

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23. Potential bidders are requested to outline areas where they believe hydrocarbon potential is sufficient to warrant offering these areas in the Barrow Arch. The Secretary is also requesting comments from all interested parties—Federal, State, and local governments, environmental groups, the general public, and potential bidders—on possible environmental effects and use conflicts in the Call area and on the appropriateness of initial lease terms longer than 5 years and lease areas larger than 5,760 acres (2,331 hectares).

Use of Information from Call

Indications of interest submitted in response to this Call will be considered during the area identification process in selecting the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement as the proposed Federal action. This information will also be used in identifying alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as result of inventorying and producing oil and gas, can be assessed. These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations. Comments submitted regarding length of lease term and size of lease tract may be used in the assessment of the appropriate initial lease term and appropriate lease tract size, pursuant to section 8 of the OCS Lands Act, as amended (43 U.S.C. 1337).

Description of Area

In general, the Barrow Arch lies in the eastern Chukchi Sea off the northwest coast of Alaska. It is bounded on the south by 68° 17' N. latitude; on the west by 169° W. longitude; on the north by 73° N. latitude from 169° W. longitude to 162° W. longitude; thence south to 71° N. latitude and east from 162° W. longitude to the 3-geographic-mile line, which forms the eastern boundary from 71° N. latitude to 68° 17' N. latitude.

Indications of interest and comments may be considered for all Federal acreage within the boundaries of the Call. Boundaries of the Call area are shown on the map at the end of this Call. Boundaries of the Call area are depicted in detail on the standard Call for Information Map available free from the Regional Supervisor, Offshore Leasing and Environment, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, 620 East 10th Ave., Anchorage, Alaska 99510.

The following list identifies the Official Protraction Diagrams in this Call. The diagrams may be purchased for $2.00 each from the Regional Manager, Alaska OCS Region.

NS 2-8—(Approved February 25, 1981), all Federal blocks
NS 3-7—(Approved July 14, 1981), all Federal blocks
NS 3-8—(Approved January 21, 1981), all Federal blocks
NR 2-2—(Approved February 25, 1981), all Federal blocks
NR 2-4—(Approved February 25, 1981), all Federal blocks
NR 2-6—(Approved February 25, 1981), all Federal blocks
NR 2-8—(Approved February 25, 1981), all Federal blocks
Except: Blocks 678-686, 722-730, 766-774, 810-818, 854-863, 898-907, 942-951, and 986-995.
NR 3-1—(Approved July 14, 1981), all Federal blocks
NR 3-2—(Approved October 12, 1977), all Federal blocks
NR 3-3—(Approved April 30, 1981), all Federal blocks
NR 3-4, Solivik Island (Approved April 25, 1978), all Federal blocks
NR 3-5—(Approved April 30, 1981), all Federal blocks
NR 3-6, Point Lay (Approved October 12, 1977), all Federal blocks
NR 3-7, Point Hope (Approved July 21, 1977), all Federal blocks
Except: Blocks 662-674, 706-720, 750-765, 794-810, 837-854, 881-899, 925-946, and 969-992.
NR 3-8, De Long Mountains (Approved July 21, 1977), all Federal blocks
NR 4-3, Wainwright (Approved October 12, 1977), all Federal blocks
NR 4-4, Meade River (Approved August 23, 1977), all Federal blocks

Instructions on Call

Indications of interest from potential bidders should be limited to the Federal acreage included in the Call area described above. Respondents should indicate interest in those portions of the Call area having sufficient potential for the discovery of oil and gas to be offered for lease. Those indicating interest are requested to do so on the standard Call for Information Map, available free from the Regional Supervisor, Offshore Leasing and Environment, Alaska OCS Region, at the address stated in the second paragraph under "Description of Area," telephone (907) 276-2955. Interest should be shown by outlining the area(s) along block lines.

The standard Call Map shows the Call area and highlights the area identified by the Minerals Management Service (MMS) as having potential for the discovery of oil and gas. Although

individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are encouraged to rank areas according to priority of interest (e.g., priority 1 (high), 2, or 3). Priority information submitted by companies will be held confidential and may be used as a criterion in determining the area to be analyzed in the environmental impact statement.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archeological, or socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas but may be restricted to designated blocks of particular concern.

Comments are also being sought from all interested parties on the appropriateness of initial lease terms longer than 5 years and on the need, if any, for lease areas larger than 5,760 acres (2,331 hectares). Such comments should describe why such modifications would be appropriate and identify where such modifications should be applied. Those making comments are requested to mark the area commented upon on the standard Call for Information Map discussed above.

Indications of interests and comments must be submitted no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf, Barrow Arch (February 1985)" or "Comments on Leasing in the Outer Continental Shelf, Barrow Arch (February 1985)" as appropriate. The map (original) and indications of interest or comments must be submitted to the Regional Supervisor, Offshore Leasing and Environment, Alaska OCS Region, at the address stated in the second paragraph under "Description of Area." One copy of the map and indications of interest or comments are also to be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the OCS Lands Act, as amended. A final Notice of Lease Offering, detailing areas to be offered for competitive bidding, will be published in the **Federal Register** stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Date: June 21, 1983.

Dave Russell,

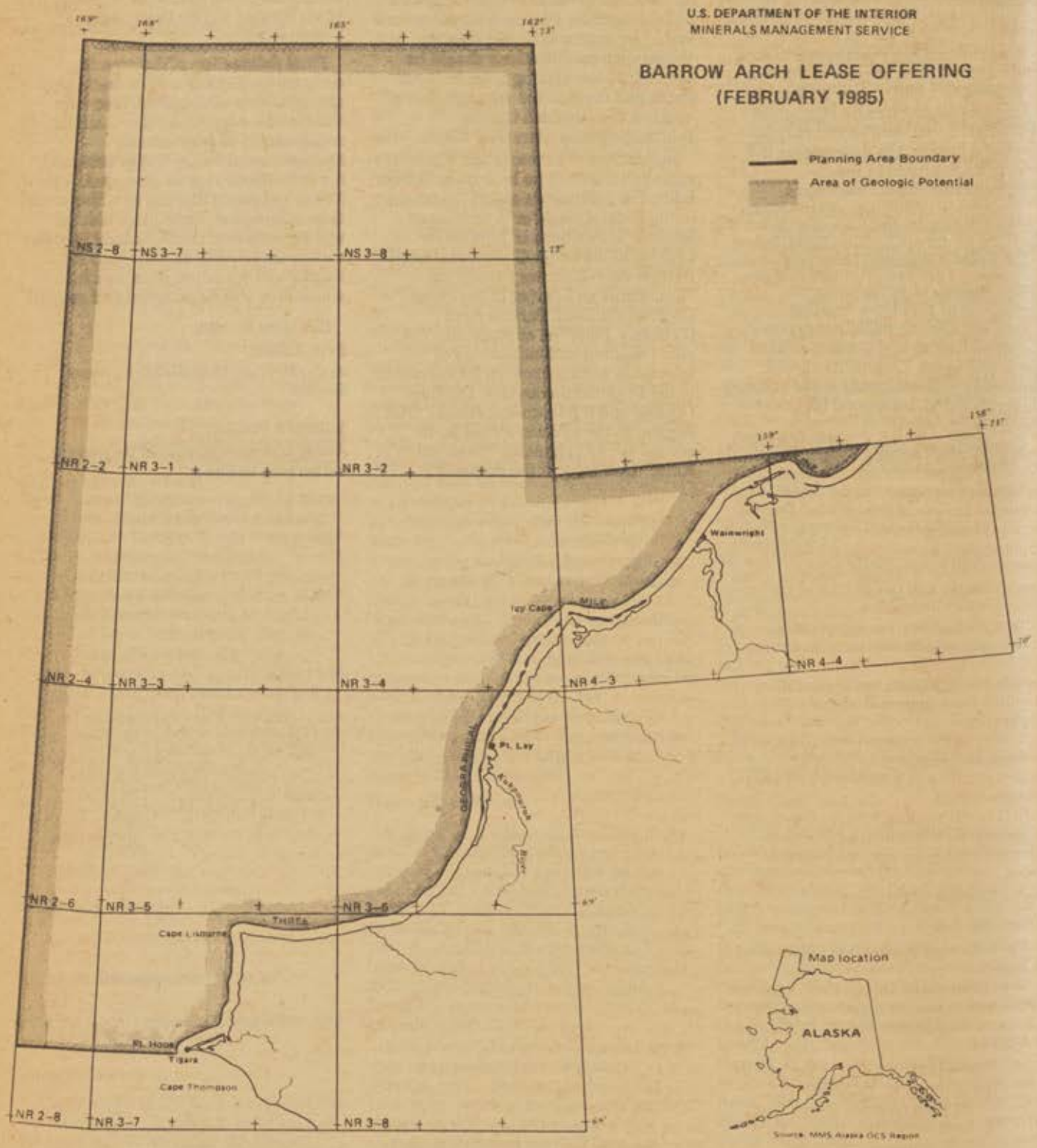
Acting Director, Minerals Management Service.

William P. Pendley,

Acting Assistant Secretary of the Interior.

BILLING CODE 4310-MR-M

Call For Information



May 20, 1983

[FR Doc. 83-17135 Filed 6-24-83; 8:45 am]
BILLING CODE 4310-MR-C

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-271

The following applications were filed in Region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 168648 (Sub-1–1 TA), filed June 14, 1983. Applicant: B. K. TRANSPORT, INC., 376 Duncan Avenue, Jersey City, NJ 07306. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Part, NJ 08904. *Chemicals or related products and paper and plastic products, (except commodities in bulk and hazardous materials)* between New York, NY Commercial Zone, on the one hand, and, on the other, points in AL, CA, CO, FL, GA, IL, IN, KS, LA, MI, MS, MO, NE, NJ, NY, NC, OH, SC, TN, TX and WI. Supporting shipper(s): Technicon Instrument Corp., 600 Hadley Road, South Plainfield, NJ 07080; Amber Warehouse, Inc., 110 Maltese Drive, Totowa, NJ, 07512; Colorite Plastics Co./ Gering Products, 101 Railroad Avenue, Ridgefield, NJ 07657.

MC 150121 (Sub-1–5 TA) filed June 10, 1983. Applicant: DVJ TRUCK LINES, INC., One Ridge Road, Monmouth Junction, NJ 08852. Representative: Henry J. Capro, Esq., 1585 Morris Avenue, Union, NJ 07083. *General commodities, with the exception of Class A & B explosives; household goods and commodities in bulk,* between NJ, NY, PA, CT, MD, VA, MA, DE, RI, DC, NC, SC, GA, FL, TN, MI, AL, and LA. Supporting Shipper(s): Crouse-Hinds Arrow Hart Div., 16 Eastern Park Road, East Hartford, CT 06108; Gibson Associates, Inc., Cranford, NJ; Cosmair, Inc., Clark, NJ 07066; Johnson & Johnson Baby Products Co., Grandview Road, Skillman, NJ 08558; Lithonia Lighting Div. National Service Industries, P.O. Box A, Conyers, GA 30207.

MC 92733 (Sub-1–1TA), filed June 15, 1983. Applicant: DORAL TRANSPORT COMPANY, 2600 Hamburg Turnpike, Lackawanna, NY 14218. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Washington, D.C. 20036. *Liquid sucrose and high fructose corn syrup* between Buffalo, NY, and points in NY, on the International Boundary Line, on the one hand, and, on the other, points in MA, MD, NH, NY, PA, NJ, OH, MI, WV, CT and RI. Supporting shipper: U.S. Brands Corporation, P.O. Box 1997, Buffalo, NY 14219.

MC 168407 (Sub-1–1TA), filed June 10, 1983. Applicant: HANNON LUMBER TRANSFER INC., 121 Overdale Avenue, Hamilton, Ontario, CD L9J 1G6. Representative: William J. Hirsch P. C., 64 Niagara Street, Buffalo, NY 14202. *Lumber and lumber products,* between points on the International Boundary Line between the U.S. and CD, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, NJ, KY, MA, MD, NC, JN, NY, OH, PA, SC, TN, VT, VA, WV, DC. Supporting shipper(s): Tall Tree Lumber Corp., 86 Wilson Street, Oakville, Ontario, CD L6K 3G5; G. A. Grier Inc., 2 Place Ville Marie, Suite #63, Montreal, Quebec, CD H3B 3Y3; Buehler Lumber Company, West Main Street, Ridgeway, PA 15853.

MC 168357 (Sub-1–1TA), filed June 14, 1983. Applicant: LES AGENCIES MARTIES MTS Inc., 371, rue Flaubert, Ste-Julie, PQ, CD J0L 2C0. Representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, PQ, CD J6A 1H5. *(1) Plastic bags; (2) Precast polymer concrete; and (3) Sheets and pipes (asbestos cement)* from the ports of entry on the International Boundary Line between the U.S. and Canada to (1) Hopewell, WV, Bakers, WV, Warsaw, VA, Travillien, VA, Stirling, VA and Vienna, VA; (2) Baltimore, MD, Boston, MA, San Jose, CA, Philadelphia, PA and its Commercial Zone, Norfolk, VA, and New York, NY and its Commercial Zone; and (3) NJ points in Orange, Middlesex, Warren and Morris Counties; Long Island, Bronx, Waterford, Baldwin, Buffalo and Rochester, NY; Hudson, Londonderry and Cochrane, NH; Portland, Lionstown and Gardiner, ME; Rome, Greenscut and Shearer, GA; Boston and Newton, MA; Augusta, MS, St. Louis, MO; Philadelphia, PA; Washington, DC; Houston, TX; Alexandria, VA; Riverside, CA; Laredo, TX; New Hill, NC; Rabbit Ash, KY, Lakeland, FL; and Perry, OH. Supporting shipper(s): Atlas Turner Inc., 5600 Hochelaga Street, Montreal, PQ, CD H1N 1W1; Plastibeton Inc., 5600 Hochelaga Street, Suite 300, Montreal, PQ, CD H1N 3L7; Salerno Transparent Bags Ltd, 2251 Lapierre Street, Ville Lasalle, PQ, CD H8N 1B7.

MC 168685 (Sub-1–1TA), filed June 15, 1983. Applicant: GARY R. LUNDGREN, 189 V.F.W. Drive, Rockland, MA 02370. Representative: Gary R. Lundgren (same as applicant). *Cloth, Sisal, Buffing Wheels, Buffing Compounds, Abrasive Grinding Wheels, Discs, Pads, Belts* from MA to points in AL, CT, DE, GA, IN, KY, MD, MI, NJ, NY, OH, PA, RI, SC, TN, VA, WV, IL, MA, NC. Supporting shipper: F. L. and J. C. Codman Company, P.O. Box 388, Rockland, MA 02370.

MC 168677 (Sub-1–1TA), filed June 15, 1983. Applicant: METRO COURIER CORPORATION, 156 Rover Street, Everett, MA 02149. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *General commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions),* between points in ME, NH, VT, MA, RI, CT, NY, and NJ. Supporting shipper(s): Analog Devices, 804 Woburn Street, Wilmington, MA 01887; A. D. Little Inc., 20 Acorn Park, Cambridge, MA 02140; Bose Corporation, 100 Mountain Road, Framingham, MA 01701; Amstar Corp.,

425 Medford Street, Charlestown, MA 02129.

MC 2060 (Sub-1–5TA), filed June 8, 1983. Applicant: PINE HILL–KINGSTON BUS CORP., d.b.a. PINE HILL TRAILWAYS, 18 Pine Grove Avenue, P.O. Box 1758, Kingston, NY 12401. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. *Common carrier:* regular routes: *Passengers* between Rome and Utica, NY. From Rome, NY over NY Hwy 49 to Utica, NY and return over the same route, serving all intermediate points. Applicant proposes to tack this authority with its existing authority. Supporting shipper: City of Rome, City Hall, Rome, NY 13440.

MC 168575 (Sub-1–1TA), filed June 10, 1983. Applicant: POPKO TRUCKING CO., INC., P.O. Box 1073, 253 Union Street, Westfield, MA 01086. Representative: David M. Marshall, Marshall and Marshall, Sixth Floor—95 State Street, Springfield, MA 01103. *Building materials, paper and paper products, iron and steel,* between points in MA, CT, NJ, NC, VA, PA and MD. Supporting shipper(s): There are seven statements of support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 108473 (Sub-1–2TA), filed June 10, 1983. Applicant: ST. JOHNSBURY TRUCKING COMPANY INC., 38 Main Street, St. Johnsbury, VT 05819. Representative: Harry J. Jordan, Esq., Macdonald, McInerny, Guandolo, Jordan & Crampton, 1090 Vermont Avenue, NW., Suite 200, Washington, D.C. 20005. *General commodities, except Class A and B explosives, household goods, and commodities in bulk,* between points in the U.S. (except AK and HI) under continuing contract(s) with General Mills, Inc., and its following subsidiaries and divisions: Pioneer Products, Inc., Saluto Foods Products Corp., Eddie Bauer, Inc., The Donruss Division, The Gorton Division, O-Cel-O, Sperry, Yoplait, David Crystal, Danco/Izod, Empire Textiles, Foot Joy, Lark Luggage, Monet, Ship'n Shore, Casa Gallardo, Creative Dining, Good Earth, Red Lobster, Sigmacon, York Steak House, Dunbar, Kittinger, LeeWards, Pennsylvania House, The Talbots, Wallpapers To Go, Wild West, Fundimensions, Kenner Products, and Parker Brothers. Supporting shipper: General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, MN 55440.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA. 19106.

MC 168566 (Sub-II–1TA), filed June 10, 1983. Applicant: C. B. TRUAX, INC., P.O Box 308, Hancock, MD 21750. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Rags* between points in the U.S. (except AK and HI), under a continuing contract(s) with Goodwill Industries of America, Inc.; and (2) *general commodities* (except Classes A & B explosives, commodities in bulk and household goods) between points in NY, NJ, DE, MD, DC, VA, WV, OH, PA and FL, under a continuing contract(s) with Freight Management Systems, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Goodwill Industries of America, Inc., 9200 Wisconsin Avenue, Bethesda, MD 20814 and Freight Management Systems, Inc., 1717 Penn Ave., Suite 808, Pittsburgh, PA 15221.

MC 159033 (Sub-II–2TA), filed June 9, 1983. Applicant: CUMBERLAND LIMOUSINE SERVICE, INC., P.O. Box 1477, 1501 Ford Ave., Cumberland, MD 21502. Representative: Robert D. Fansler, 911 Michigan Ave., Cumberland, MD 21502. *Passengers and baggage,* in charter and special operations between Allegany Co., Washington Co., Garrett Co., MD., Bedford, PA., and Mineral Co., Hardey Co., Hampshire Co., Grant Co., Morgan Co., WV., on the one hand, and, on the other,points in PA, WV, VA, MD, ME, VT, NH, MA, RI, TN, CT, NY, NJ, DE, OH, KY, NC, SC, GA, FL, DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statement may be examined at the ICC office in Philadelphia, PA.

MC 107012 (Sub-II–311TA), filed June 7, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US, under continuing contract(s) with Federal Mogul Corp. of Southfield, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Federal Mogul Corp. 26555 Northwestern Hwy., Southfield, MI 48034.

MC 107012 (Sub-II–312TA), filed June 7, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US, under continuing contract(s) with Howard Johnson Co., of Braintree, MA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Howard Johnson Co., 220 Forbes Road, Braintree, MA 02184.

MC 107012 (Sub.-II–313TA), filed June 8, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the US under continuing contract(s) with Modular Computer Systems, Inc. of Fort Lauderdale, FL, and its divisions and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Modular Computer Systems, Inc., 1650 W. McNab Road, Ft. Lauderdale, FL 33309.

MC 117760 (Sub-II2TA), filed June 10, 1983. Applicant: FLOYD A. SCHEIB, INC., Box 328, Hegins, PA 17938. Representative: Lee E. High, P.O. Box 8551, Reading, PA 19603. *General Commodities* (except Class A and Class B explosives, household goods, and commodities in bulk), between points in FL, GA, SC, NC, VA, MD, DE, NJ, PA, NY, CT, MA, RI, DC, VT, NH, ME, OH, WV, KY, TN, AL, MS, IN, MI, WI, IL, MO, LA, and TX., for 270 days. Supporting shippers: Elsie's Ceramics, Hegins, PA 17938, Pine Creek Investments, Inc., Hegins, Pa 17938, and Dun-Gar, Inc., DuBois, PA 15801.

MC 168554 (Sub-II–1TA), filed June 10, 1983. Applicant: VIRGINIA WAREHOUSING, INC., 6068 Farrington Ave., Alexandria, VA 22304. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Contract, irregular: *Lawn and garden care products,* between Alexandria, VA, and Marysville, OH, and pts. in their commercial zones, on the one hand, and, on the other, pts in NJ, PA, MD, DE, VA, WV, and DC, under continuing contracts with O.M. Scott & Sons, a Subsidiary of ITT, Marysville, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: O.M. Scott & Sons, a Subsidiary of ITT, 14111 Scottslawn Rd., Marysville, OH 43041.

MC 167737 (Sub-II–1TA), filed June 10, 1983. Applicant: WELLS FLEET AND TRUCK SERVICE, INC., 8055 Martx Paulen Road, Franklin, OH 45005. Representative: Colin Barret, 11764 Indian Ridge Rd., Reston, VA 22091. Contract Irregular: *Paper and paper products,* between Franklin, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Stone

Container Corp., 50 E. 6th St., PO Box 427, Franklin, OH 45005.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N. E., Atlanta, GA 30309.

MC 167841 (Sub-3–1TA), filed June 14, 1983. Applicant: SUNSHINE EXPRESS, INC., 6905 N.W. 41st St., Miami, FL. 33172. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL. 33328. *General Commodities, (Except those in bulk, Household Goods, Classes A and B Explosives),* From and To all points in the State of FL on shipments having a prior or subsequent movement by water, truck or rail, in interstate or foreign commerce. Supporting shippers: Shenkers International, 1316 N.W. 78th Ave., Miami, FL. 33126 A.C. Neilsen Co., 1435 N.W. 82nd Ave., Miami, FL 33121 Miami Lincoln Mercury, 8460 N.W. 7th Ave., Miami, Fl, 33150.

MC 168644 (Sub-3–1TA), filed June 14, 1983. Applicant: SELLER'S TRUCKING COMPANY, INC., Route 2, Box 664, Cottondale, AL 35453. Representative: Donald B. Sweeney, Jr., Esq., P.O. Box 2366, Birmingham, AL 35201. *Coke, a direct product of coal,* from Holt, AL to all points in MS, TN, GA, LA, TX, FL, KY, and AR. *Supporting Shipper:* Empire Coke Company, P.O. Box 190, Holt, AL 35404.

MC 152950 (Sub-3–9TA), filed June 14 1983. Applicant: CENTURY TRANSPORTATION CORPORATION, Post Office Box 207, Columbus, MS 39703–0207. Representative: Lloyd R. Pate (Same as applicant). *Contract Carriers;* Irregular Route; *General Commodities (except Classes A & B Explosive; Household Goods; and Commodities in Bulk)* between MS on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with: Flavorite Laboratories, 5980 Hurt Road, Horn Lake, MS.

MC 128372 (Sub-3–2TA), filed June 16, 1983. Applicant: PHILPOT CONTRACTING COMPANY, INC. P. O. Box 44004, Atlanta, GA 30336. Representative: Raymond F. Philpot P.O. Box 44004, Atlanta, GA 30336. *Glass, flat, not bent; glazing units, glass; plastic and plastic products;* between Atlanta and Stone Mountain, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Hordis Brothers, Inc., 1548 Stoneridge Dr., Stone Mountain, GA 30083.

MC 168462 (Sub-3–TA), filed June 16, 1983. Applicant: CROWN SYSTEMS, INC., P. O. Box 940070, Doraville, GA 30340. Representative: Mark S. Gray, Suite 1006, 225 Peachtree St., N.E., Atlanta, GA 30303. *Contract carrier;* irregular route: *General commodities (except classes A and B explosives, household goods and commodities in bulk),* between points in and east of WI, IL, MO, MS, and LA on the one hand, and on the other points in the U.S. (except AK and HI) under continuing contract(s) with Royal Freight, Inc., 4126 Pleasantdale Rd., Suite B–112, Doraville, GA 30340.

The following applications were filed in region 4: send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–109TA), filed June 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK & HI) under a continuing contract(s) with C.F. Industries, Inc., and its subsidiaries. Supporting shipper: C.F. Industries, Inc., Salem Lake Dr., Long Grove, IL 60647.

MC 15735 (Sub-4–110TA), filed June 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under a continuing contract(s) with Atex, Inc. and its subsidiaries. Supporting shipper: Atex, Inc., 35 Hartwell Ave., Lexington, MA 02173.

MC 15735 (Sub-4–111TA), filed June 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under a continuing contract(s) with Progressive Corporation, and its subsidiaries. Supporting shipper: Progressive Corporation, 6300 Wilson Mills Rd., Mayfield, Village, OH 44143.

MC 42866 (Sub-4–4TA), filed June 10, 1983. Applicant: NATIONAL VAN LINES, INC., 2800 Roosevelt Rd., Broadview, Ill. 60153. Representative: John P. Torpats (same address as applicant) 312/450–2900. *Contract irregular: Household Goods,* between points in the U.S. under continuing contract with Werner Erhard and Associates. Supporting shipper: Werner Erhard and Associates, 765 California St., San Francisco, CA 94108.

MC 113855 (Sub-4–16TA), filed June 9, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55903. Representative: Michael E. Miller, 15 Broadway—Suite 502, Fargo, ND 58102. Contract; Irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with IT Distribution Services, Inc., of Rochester, MN. Supporting shipper: IT Distribution Services, Inc. 2450 Marion Road SE, Rochester, MN 55903.

MC 113855 (Sub-4–17TA), filed June 10, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55903. Representative: Leonard L. Bennett, 2450 Marion Road S.E., Rochester, MN 55903. Contract; Irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with Weyerhaeuser Company. Supporting shipper: Weyerhaeuser Company, P.O. Box 275, Springfield, OR 97477.

MC 125479 (Sub-4–1TA), filed June 8, 1983. Applicant: P–N–J KORNACKER, INC., 3030 West 10th Street, Waukegan, IL 60085. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. *Malt beverages and related advertising material and materials and supplies used or useful in the manufacture and distribution of malt beverages,* (1) between Detroit, MI, on the one hand, and, on the other, points in WI, OH, MO, TN and MN, and (2) between points in IL, on the one hand, and, on the other, points in MN, WI, IN, KY, MO, MI, OH and NY. Supporting shippers: Eastown Distributors Company, 13542 Helen Avenue, Detroit, MI 48213, Oak Terrace Beverage Company, Inc., 555 Vine Street, Highland Park, IL 60035, Joe Mullarkey Distributors, Inc., 2025 Johns Drive, Glenview, IL 60025.

MC 147669 (Sub-4–4TA), filed June 10, 1983. Applicant: Mc NITT PRODUCE, INC., 3220 Fairlane, S.W., Grandville, MI 49418. Representative: Ronald J. Kooistra, 2737 De Hoop Avenue, S.W., Wyoming, MI 49509. Contract; irregular: *farm products, food and related products* between points in the United States under a continuing contract with Spartan Stores, Inc., Box 8700, Grand Rapids, MI 49508.

MC 153419 (Sub-4–1TA), filed June 8, 1983. Applicant: THOMAS D. COX TRUCKING, 1111 N. 19th St., P.O. Box 833, Murphysboro, IL 62966. Representative: Lyn D. Cox (same as

applicant). *Commodities that because of their size or weight require the use of special equipment or handling,* between points in the U.S. (except AK and HI). There are 10 supporting shippers.

MC 161165 (Sub-4–2TA), filed June 10, 1983. Applicant: THOMAS J. WALLACE, d.b.a. MID-WEST TRANSPORT, 12549 South Major, Palos Heights, IL 60463. Representative: Anthony E. Young, Ltd., 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. *Contract irregular: General commodities* (except Classes A and B explosives, household goods and commodities in bulk) between points in IL, on the one hand, and, on the other, points in IN, MI, OH, WI, KY, MO, MN and IA, under continuing contracts with Doug Lavery, Ltd., of Alsip, IL. Supporting shipper: Doug Lavery, Ltd., 12200 Shirley Lane, Alsip, IL 60658.

MC 168217 (Sub-4–1TA), filed June 10, 1983. Applicant: OLD RELIABLE TRANSPORT, INC., 829 Oak St., Mishicot, WI 54228. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. *Petroleum products, in bulk, in tank vehicles,* from Green Bay and Superior, WI to points in the Upper Peninsula of MI. Supporting shipper: Payne and Dolan of Wisconsin, Inc., N3 W23650, Badinger Rd., P.O. Box 781, Waukesha, WI 53186.

MC 168423 (Sub-4–1TA), filed June 9, 1983. Applicant: TOWN & COUNTRY TRUCKING, INC., 6051 West Brown Deer Road, Milwaukee, WI 53223. Representative: Frederick A. Suran, 6051 West Brown Deer Road, Milwaukee, WI 53223. Contract irregular: *Such commodities as are dealt in by retail department stores* between points in the Chicago, IL Commercial Zone and points in the State of Wisconsin. Supporting shipper: J.C. Penny Company, Inc., 851 Devon Ave, Elk Grove Village, IL 60007.

MC 168473 (Sub-4–1TA), filed June 9, 1983. Applicant: PERRY PETROLEUM PRODUCT CARTAGE CORP., 321 E. Columbus Dr., East Chicago, IN. 46312. Representative: Marc J. Blumenthal, 100 West Monroe St., Chicago, IL. 60603. *Petroleum Products* between East Chicago, IL on the one hand, and, on other, points in IL, IA, MI, OH AND WI. There are nine supporting shippers.

MC 168609 (Sub-4–1TA), filed June 10, 1983. Applicant: GARY L. RAASCH AND JANICE M. RAASCH, d.b.a. G. & J AUTOMOTIVE SERVICE, 2278 Hwy. 69 S., P.O. Box 266, Verona, WI 53593. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. *Metal pipe, culverts and guardrails and materials, equipment and supplies used in the manufacture, installation or sale of metal pipe, culverts and guardrails* from Stoughton, WI to points in IL, IN, and IA. Underlying ETA seeks 120 day authority. Supporting shipper: Wheeling Corrugating Company, Division of Wheeling Pittsburg Steel Corporation, 4 Gateway Center, P.O. 118, Pittsburgh, PA 15230.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commisssion, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5–26TA), filed June 13, 1983. Applicant: Atlas Van Lines, Inc., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same as above). Contract, Irregular: *Nuclear reactors and associated equipment, materials, parts and supplies used in the manufacture, repair servicing of nuclear reactor power plants* between San Jose and Vallecitos, CA, Wilmington, NC and Morris, IL on the one hand, and on the other, points in the U.S. (exclusive of AK and HI). Supporting shipper: General Electric Company, Nuclear Energy Business Operations, San Jose, CA.

MC 148815 (Sub-5–2TA), filed June 15, 1983. Applicant: Husker Distribution, 4900 Superior Street, #3, Lincoln, NE 68504. Representative: Lavern R. Holdeman, 1610 South 70th, Suite 200, Lincoln, NE 68506. *General commodities (except classes A and B explosives, household goods and commodities in bulk.)* Between Hebron and Geneva, NE, on the one hand, and, on the other, points in NE, restricted to the transportation of shipments moving for the account of Emerald Delivery Systems, Inc.

Note: Applicant intends to interline.

MC 161557 (Sub-5–1TA), filed June 13, 1983. Applicant: Maverick Truck Line, Inc., 10811 IH 35 North—Suite 114, San Antonio, TX 78233. Representative: Lewis R. Teeple, Route 3, Box 525, Scottsville, VA 24590. (1) *building materials and plastic products* between points in AL, AR, MS, TN, LA, TX, OK, KS, CO, and NM; and (2) *iron and metal products, materials and supplies used in the manufacturing thereof,* between points in TX, on the one hand, and points in AL, MS, TN, KS, CO, and NM, on the other. Supporting shipper(s): 5.

MC 161957 (Sub-5–4TA), filed June 15, 1983. Applicant: Express Transportation Co., Inc., 1230 W. 17th St., Houston, TX 77270. Representative: Mick Graeber, P.O. Box 70611, Houston, TX 77270. *Carpet and related materials and supplies* from Oklahoma City, and Anadarko, OK to Houston and Dallas, TX and their commerical zones. Supporting shipper(s): 7.

MC 167745 (Sub-5–1TA), filed June 15, 1983. Applicant: V & J TRANSFER, 4017 Terrace Drive, Amarillo, TX 79109. Representative: John T. Goodnight (same as above). *General Commodities (ex Classes A & B Explosives, HHG and Commodities in bulk)* between points within a 350 mile radius of Amarillo, TX. Restricted to prior or subsequent rail movement. Supporting Shipper: Valley Grain Products Inc., Muleshoe, TX.

MC 168270 (Sub-5–1TA), filed June 15, 1983. Applicant: HILL & HILL Inc., P.O. Box 9, Dierks, AR. Representative: Grover Hill (same address as applicant). *Crushed Stone, Sand, RipRap, and Cold Mix.* Between points in AR, TX, OK, LA. Supporting shipper: Stanley Land and Development, Stilwell, KS.

MC 168399, (Sub-5–1TA) filed June 15, 1983. Applicant: NORBERTO G. PORTALES, d.b.a. PORTALES MOTOR TRUCKING, 2106 N. Commerce, Sunnyside Trailer Park, Harlingen, TX 78550. Representative: David Hughes, 2590 Morgan Avenue, Corpus Christi, TX 79405. *Plastics in bags, machinery, can goods, cotton, used rags, electronics, shoes and clothes thereof,* between points in Cameron and Hidalgo Counties restricted to traffic having prior or subsequent movement by rail. Supporting shipper: Southern Pacific Transportation, Brownsville, TX.

MC 168651 (Sub-5–1TA), filed June 13, 1983. Applicant: T & T TRANSPORT SERVICE, INC., P.O. Box 296, Greenwell Springs, LA 70739. Representative: Hampden R. White, Suite 301, 5420 Corporate Blvd., Baton Rouge, LA 70808. *Asphalt in bulk, asphaltic compounds in bulk, packages or containers, and finished products containing asphalt or asphaltic compounds,* between points in AL, AR, FL, GA, MS, LA, OK, TN, and TX. Supporting shippers: Johns-Manville Sales Corporation, Altlanta, GA and Gulf States Asphalt, Houston, TX.

MC 168682 (Sub-5–1TA) filed, June 15, 1983. Applicant: HERBERT W. HASTINGS, Rural Route 1, Box 24, Windsor, MO 65360. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102. Contract, irregular; *iron and steel pipe and fittings, and aluminum pipe and fittings,* between points in the U.S. (except AK and HI), under continuing contract(s) with Marmon Keystone Corporation of Chicago, IL.

MC 168692 (Sub-5–1TA), filed June 15, 1983. Applicant: GAF TRANSPORT, INC., 2204 Wainewright Court, Longview, TX 75607. Representative: Gordon A. Fenner, 2204 Wainewright

Court, Longview, TX 75607. Contract: Irregular, *Trailers and Related Articles* between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Acro Trailer Co., Springfield Trailer and Equipment, Inc., and Lufkin Trailers. Supporting shippers: Acro Trailer Co., Springfield, MO Springfield Trailer and Equipment, Inc., Springfield, MO and Lufkin Trailers, Lufkin, TX.

MC 168693 (Sub-5–1TA), filed June 15, 1983. Applicant: JACKSON HAULING, 6325 Page Blvd., St. Louis, MO 63133. Representative: Edward Jackson (same as above). Contract, Irregular: *general commodities* between Golden Dipt Company—St. Louis, MO, on one hand, and, on the other, points in the continental U.S. Supporting shipper: Golden Dipt, St. Louis, MO.

MC 168694 (Sub-5–1TA), filed June 15, 1983. Applicant: MIDWEST TRANSPORTATION SERVICES, INC., U.S. Hi-Way 59, So., Hancock, IA 51536. Representative: James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Hides*, from Darr, NE to Butler, MO. Supporting shipper: Ohsman & Sons Company, Inc., Cedar Rapids, IA.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 168251 (Sub-6–1TA), filed June 10, 1983. Applicant: BLADES FARMS, 11993 Silver Falls Hwy S.E., Aumsville, OR 97325. Representative: Roger Blades (same address as applicant). *Contract Carrier*, Irregular routes: *Lumber and wood products*, from Mill City, OR to points in WA for the account of Cedar Lumber Inc., for 270 days. Supporting shipper: Cedar Lumber, Inc., P.O. Box 1446, Mill City, OR 97360.

MC 42487 (Sub-6–82TA), filed June 9, 1983. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract Carrier*, irregular routes: *Locks and Lock Sets, Displays, Hand Tools and Key Blanks*, between Los Angeles, CA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI and WY under continuing contract(s) with Weslock Division of TRE Corp., for 270 days. Supporting shipper: Weslock Division of TRE Corp., 13344 S. Main Street, Los Angeles, CA 90061.

MC 168595 (Sub-6–1TA), filed June 13, 1983. Applicant: DATELINE ENTERPRISES, P.O. Box 987, Manteca, CA 95336. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. *Contract Carrier*, irregular routes *wine*, from points in CA to Oklahoma City, OK, under continuing contract(s) with Hirst Imports, Incorporated, Oklahoma City, OK, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hirst Imports, Inc., 233 NW 61st St., Oklahoma City, OK 73118.

MC 146580 (Sub-6–3TA), filed June 13, 1983. Applicant: FREIGHT SYSTEMS, INC., 7022 So. 220th, Kent, WA 98031. Representative: Damiel F. Mullin, Suite 600, Market Place One, 2001 Western Ave., Seattle, WA 98121 *Contract Carrier:* Irregular routes: *General Commodities* (Except classes A and B explosives, household goods and commodities in bulk), between points in WA and OR, for 270 days, for Fuller Bush Co. Supporting shipper: The Fuller Bursh Company, P.O. Box 729, Westport Addition, Great Bend, KS 567530.

MC 168596 (Sub-6–1TA), filed June 13, 1983. Applicant: INDEPENDENT PRODUCERS MARKETING CORP., P.O. Box, 1968, Casper, WY 82602. Representative: Frederick D. Price (same as applicant). *Mercer Commodities*, between points in WA, OR, NV, AZ, MT, ID, WY, UT, CO, NM, ND, SD, NE, KS, OK, TX, MO, AR, LA, KY, TN, for 270 days. Supporting shippers: Dura Supply Co., Box 2706, Gillette, WY 82716; WIN Oil Co., Box 401, Moorcroft, WY, 82721; Powder River Pipeline Co., Box 3114, Casper, WY 82602; Masek Oil Co., Box 3114, Casper, WY 82602.

MC 168597 (Sub-6–1TA), filed June 13, 1983. Applicant: DON JACOBSON d.b.a. DON JACOBSON TRUCKING, 2210 Monad Rd., Billings, MT 59102. Representative: Charles A. Murray, Jr., 2822 Third Ave. No., Billings, MT 59101. *Chemicals and petroleum products* between points in MT on the one hand, and on the other, points in WA, OR, ID, CA, WY, TX, Salt Lake City, UT; Roxana, IL; Kansas City and St. Louis, MO; Omaha and Fremont, NE; Jacksonville, AR; Holt, AL; Cordell, OK; Mankato and Minneapolis, MN; Greeley and Denver, CO; Olathe, KS, Dickinson, ND; Huron, SD, for 270 days. Supporting shippers: There are five shippers. Their statements may be examined at the Regional Office listed above.

MC 168598 (Sub-6–13TA), filed June 13, 1983. Applicant: L.B. TRUCK LINES, INC., 19114 Pioneer Blvd., Cerritos, CA 90701. Representative: Miles L. Kavaller, 315 South Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Contract Carrier*, irregular route; *General commodities*, (except household goods, classes A and B explosives, hazardous waste, bulk) between points in the U.S., except AK and HI, for 270 days. *Supporting shipper:* L.B. Transport Services, Inc., 19114 Pioneer Boulevard, Cerritos, CA 90701.

MC 168479 (Sub-6–1TA), filed June 8,. 1983. Applicant: WILLIAM TERRY MORTON, d.b.a. MORTON TRUCKING, Rt. 2, Box 193–B, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Fertilizers and materials used in the manufacture thereof*, between Pocatello, ID on the one hand, and, on the other, points in UT, WA and WY, for 270 days, an underlying ETA seeking up to 120 days operating authority has been filed. Supporting shipper: Pacifex, Inc., Star Rt., Box 190, Pocatello, ID 83204.

MC 73903 (Sub-6–1TA), filed June 8, 1983. Applicant: NIELSEN FREIGHT LINES, 1272 Gossage Ave., Petaluma, CA 94952. Representative: Alfred G. Krebs, 1605 64th St., Emeryville, CA 94608. *Common Carrier*, Regular Routes: *General Commodities, (except classes A & B explosives, commodities in bulk, household goods)* serving points in Amador, Calaveras, and Tuolomne Counties, CA as off-route points in connection with carrier's regular route operations for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lee Way Motor Freight, Inc., 3401 N. W. 63rd Street, Oklahoma City, OK 73116.

MC 167397 (Sub-6–1TA), filed June 10, 1983. Applicant: RAY G. PARKE, ROY PARKE, WAYNE PARKE d.b.a. PARKE BROS. TRUCKING, 29044 189th Place S.E., Kent, WA 98031. Representative: Jim Pitzer, P.O. Box 895, Renton, WA 98057. *Contract Carrier*, irregular routes: *Bananas* from Los Angeles, CA Commerical Zone (Long Beach, CA) to Seattle, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific Fruit & Produce Company, 4103 Second Ave. So., Seattle, WA 98134.

MC 141599 (Sub-6–7TA), filed June 13, 1983. Applicant: MOUNTAIN PACIFIC TRANSPORT LTD. d.b.a. SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, B.C., CD V3K 4X9, Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. (1) *Talc in bulk* from Three Forks, MT, to points in the U.S., (2) *chemicals* (excluding commodities in bulk) from Custer, SD, and points in AL and KY to Seattle, WA, Portland, OR, Emeryville and Los Angeles, CA, for 270 days. Supporting shippers: Harrisons & Crosfield Pacific, Inc., 2737 N.W. Nela,

Portland, OR 97210; Cyprus Industrial Minerals Company, 2700 South Alton Way (P.O. Box 3419), Englewood, CO 80155.

MC 168099 (Sub-6–1TA), filed June 13, 1983. Applicant: TRANSPORT PARTNERS, INC., 5691 W. 3640 So., W. Valley, UT 84120. Representative: Richard McDougal (same address as applicant). *Contract carrier*, irregular route: *Misc. Products of Manufacturing and Materials and Supplies used therein* between Salt Lake County, UT, on the one hand, and on the other, points in AL, CA, KY, NY, NJ and TX for 270 days. Supporting shipper: Air-Dart, 3594 W 1820 So, Salt Lake City UT 84104.

MC 148791 (Sub-6–24TA), filed June 8, 1983. Applicant: TRANSPORT-WEST, INC., 1850 S. 1100 W., Woods Cross, UT 84087. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84116. *Contract Carriere*, Irregular routes: *General commodities* (except Classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI) for the account of Montgomery Ward and Company, Inc. for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Montgomery Ward and Company, Inc., One Montgomery Ward Plaza, Chicago, IL 60671.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17180 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160 Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an aditional 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.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–269

Decided: June 17, 1983.

By the Commission, Review Board Members Carleton, Dowell, and Williams.

MC 161295 (Sub-1), filed June 3, 1983. Applicant: LIESEL HINGST d.b.a. BITTERROOT AUTO RETRIEVAL, NW 122 Chief Looking Glass, Florence, MT 59833. Representative: John M. Hingst (same address as applicant), (406) 273–2941.

Transporting *transportation equipment*, between points in the U.S.

For the following, please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP–2–277

Decided: June 17, 1983.

By the Commission, Review Board Members Krock, Williams, and Dowell (Member Williams not participating).

FF–173 (Sub-4), filed May 27, 1983. Applicant: SEAPOOL, INC., 615 W. Walnut St., Compton, CA 90220. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211; (213) 655–3573. As a *freight forwarder*, in connection with the transportation of *general commodities*

(except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 13253 (Sub-7), filed May 27, 1983. Applicant: STEUBENVILLE TRANSFER CO., Two Ridge Rd., P.O. Box 2249, Wintersville, OH 43952. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, 614–228–8575. Transporting *general commodities* (except classes A and B explosives), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 30023 (Sub-2), filed May 31, 1983. Applicant: ARROW TRANSFER AND STORAGE CO., 4001 6th Ave., S., Seattle WA 98108. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055; 206–228–3807. Transporting *malt beverages*, between points in WA and OR.

MC 44443 (Sub-6), filed May 31, 1983. Applicant: PACKAGE DELIVERY COMPANY, 4205 N. 4th Ave., Sioux Falls, SD 75104. Representative: Richard L. Burns (same address as applicant) (605) 338–3131. Transporting *household goods, machinery, office equipment, paper products, and transportation equipment*, between points in SD, on the one hand, and, on the other, points in WY, MT, NM, OK, AR, TN, TX, MS, UT, AZ, KS, MI, KY, LA, GA, AL, OR, WA, NV, CA, and ID.

MC 97642 (Sub-5), filed May 23, 1983. Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459; 713–437–1768. Transporting *building materials, lumber and wood products, fire fighting equipment and supplies, plumbing equipment, electrical equipment, supplies, and appliances, restaurant equipment and supplies, lawn and garden products, and clay, concrete, glass or stone products*, between points in the U.S. (except AK and HI).

MC 107012 (Sub-823), filed June 2, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Missouri-Kansas-Texas Railroad Company, of Dallas, TX.

MC 107012 (Sub-824), filed June 2, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Universal Foods Corporation, of Milwaukee, WI.

MC 107012 (Sub-825), filed June 2, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with ITT Grinnell Corporation, of Providence, RI.

MC 107012 (Sub-826), filed June 2, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with FMC Corporation of Chicago, IL.

MC 154872 (Sub-2), filed June 3, 1983. Applicant: SOLAR TRANSPORT, INC., 420 Central Ave. West, Hampton, IA 50441. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, (515) 288–6041. Transporting (1) *chemicals and related products*, between Chicago, IL, on the one hand, and, on the other, points in IA and MN, and (2) *food and related products*, between points in IA, on the one hand, and, on the other, points in IL, MN, NE, and WI.

MC 159932 (Sub-4), filed June 3, 1983. Applicant: CLARENCE KENNEDY, JR. d.b.a. KENNEDY & SON TRUCKING, Rt. 1, Box 81, Tryon, NC 28782. Representative: Joseph L. Steinfeld, Jr. 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, AL, AZ, CA, OR, WA, and DC.

For the following please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–382

Decided: June 17, 1983.

By the Commission, Review Board, Members: Joyce, Dowell, Williams. Member Williams not participating.

MC 135646 (Sub-8), filed June 13, 1983. Applicant: DERVAN CARTAGE SERVICE, INC., 952 N. Maple St., Albany, GA 31705. Representative: John R. Frawley, Jr., #7, 7960 Crestwood Blvd., Irondale, AL 35210, (205) 956–9749. 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 149387 (Sub-5), filed June 13, 1983. Applicant: DEAN BRENNAN TRANSPORT, INC., 2529 Highway 42, Manitowoc, WI 54220. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *general commodities* (except classes A and B explosives and household goods), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161107 (Sub-4), filed June 13, 1983. Applicant: MILBANK FREIGHTWAYS, INC., 1860 E. 28th St., P.O. Box 9485, Minneapolis, MN 55440. Representative: Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101, (612) 224–9454. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with FMC Corp., of Minneapolis, MN.

MC 166227, filed June 13, 1983. Applicant: ATLAS DISTRIBUTION SERVICES, INC., Route 2, Box 210 G, Bethalto, IL 62010. Representative: Michael R. Solomon (same address as applicant), (618) 377–9830. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CO, IL, IN, IA, KS, KY, MI, MS, MO, NC, NE, OH, OK, TN, TX, and WI.

Volume No. OP5–296

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 1239 (Sub-15), filed June 6, 1983. Applicant: PONY TRUCKING, INC., 501 State Route 7, Stubenville, OH 43952. Representative: George F. Gorman (same address as applicant), 614–283–4101. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation of Valley Forge, Pa.

MC 9269 (Sub-25), filed June 3, 1983. Applicant: BEST WAY MOTOR FREIGHT, INC., 6440 South 143rd, Seattle, WA 98168. Representative: James E. Wallingford, P.O. Box 11841, Spokane, WA 99211, (509) 534–6236. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AK, AZ, CA, CO, HI, ID, LA, MT, NB, NM, OR, TX, UT, WA, and WY.

MC 31498 (Sub-5), filed June 6, 1983. Applicant: K & T AIR FREIGHT, INC., 16525 Eastland St., Roseville, MI 48066. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in MI, on the one hand, and, on the other, points in MI, OH, IN, and IL.

MC 79658 (Sub-83), filed June 6, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with J.R. Simplot Company of Boise, ID.

MC 79658 (Sub-85), filed June 6, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Texas Gas Resources Corporation of Owensboro, KY.

MC 77018 (Sub-2), filed May 24, 1983. Applicant: THOMAS A. KIRCHNER, d.b.a. NORRENBERNS TRUCK SERVICE, R.R. 2, Box 63B, Nashville, IL 62263. Representative: Thomas A. Kirchner (same address as applicant), (618) 424–7764. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis MO, and points in St. Louis County, MO, those points in IL on and south of Interstate Hwy 70, points in Knox, Vanderburgh, and Vigo Counties, IN, and in Ballard, Daviess, Henderson, Hopkins, and McCracken Counties, KY.

MC 45968 (Sub-11), filed May 20, 1983. Applicant: ENGLE OOSTDYK, INC., 465 Boulevard, Elmwood Park, NJ 07407. Representative: Anthony C. Zisk, 65 Walthery Ave., Ridgewood, NJ 07450, (201) 447–2542. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Kent and New Castle Counties, DE; Berks, Bradford, Bucks, Carbon, Chester, Columbia, Cumberland, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Luzerne, Lycoming, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York Counties, PA; Fairfield, Hartford, Litchfield, and New Haven Counties, CT; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselear, Richmond, Rockland, Schenectady, Suffolk, Sullivan, Ulster, and Westchester Counties, NY; Baltimore, MD; points in Anne Arundel, Baltimore, Cecil, Harford, Howard, Montgomery, and Prince Georges Counties, MD; NJ, and Washington, DC.

MC 79658 (Sub-84), filed June 6, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Borden, Inc., subsidaries and affiliates of Columbus, OH.

MC 144166 (Sub-9), filed June 6, 1983. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055-0186. Representative: Michael M. Knight (same address as applicant), (205) 734–1470. 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 165668 (Sub-1), filed June 6, 1983. Applicant: WAUSAU CARRIERS, INC. P.O. Box 398, Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 167018, filed May 27, 1983. Applicant: WWC TRUCKING, INC., 910 W. Russworm, Box 788, Watonga, OK 73772. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105, (405) 424–3301. Transporting *metal products, machinery, and Mercer commodities*, (a) between points in AR, CA, CO, KS, LA, ND, NE, NM, NY, OK, SD, TX, UT, and WY, and (b) between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5–297

Decided: June 16, 1983.

By the Commission, Review Board Members Dowell, Carleton, and Joyce.

MC 152298 (Sub-1), filed June 3, 1983. Applicant: HENRY H. BROWNING, LIQUID TRANSPORTER, INC., RD #1, Box 297–B, Olean, NY 14760. Representative: Michael A. Wargula, Suite 808, 69 Delaware Ave., Buffalo, NY 14202, (716) 856–2942. Transporting *petroleum and petroleum products*, between points in Bulter, McKean and Allegheny Counties, PA, on the one hand, and, on the other, points in AL, MS, LA, FL, GA, SC, NC, TN, KY, and VA.

MC 155938 (Sub-2), filed June 8, 1983. Applicant: TRI–L TRANSPORT, INC., P.O. Box 558, Richmond, VA 23204. Representative: Robert W. Walker, 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of printed matter, pulp, paper and related products.

MC 159819 (Sub-1), filed May 27, 1983. Applicant: FAIRRINGTON TRANSPORTATION CORPORATION, 2236 Landmier Rd., Elk Grove Village, IL 60007. Representative: S. A. Harrison, 3457 Greystone Court, Marietta, GA 30067, (404) 977–8819. 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 159909 (Sub-1), filed June 7, 1983. Applicant: ADVANCED TRANSPORTATION SERVICES, INC., 118 Monahan Avenue, Dunmore, PA 18512. Representative: Ronald N. Cobert 1730 M Street, NW., Suite 501, Washington, DC 20036 (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with D&U Enterprises, Inc., of Dunmore, PA.

MC 163458 (Sub-2), filed June 7, 1983. Applicant: McCONNELL TRUCKING COMPANY, P.O. Box 42, Tioga, PA 16946. Representative: Henry McConnell RD #1, Round Lake Road, Savona, NY 14879, (607) 583–2132. Transporting *malt beverages* between points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 165399 (Sub-2), filed June 9, 1983. Applicant: L. S. TRUCKING, INC., 9003 Tara Boulevard, Jonesboro, GA 30236. Representative: Philip L. Martin, 3537 Habersham at Northlake, P.O. Box 450107, Atlanta, GA 30345, (404) 939–

9494. Transporting *alcoholic beverages* between points in the U.S., under continuing contract(s) with Dixie Distributing Co., of Columbus, GA.

MC 165399 (Sub-3), filed June 9, 1983. Applicant: L. S. TRUCKING, INC. 9003 Tara Blvd., Jonesboro, GA 30236. Representative: Philip L. Martin, P.O. Box 450107, Atlanta, GA 30345, 404-939-9494. Transporting *pulp, paper and related products*, between points in U.S., under continuing contract(s) with Avery Label Co., of Flowery Branch, GA.

MC 166418, filed June 6, 1983. Applicant: SCOTT TRUCKING, INC., Rt. 2, Box 4440, Nyssa, OR 97913. Representative: Ruth L. Scott, 40240 Linnhaven Loop, Lebanon, OR 97355 (503) 258-8833. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

Volume No. OP5-298

Decided: June 16, 1983.

By the Commission, Review Board Members Joyce, Fortier and Krock.

MC 166358, filed May 31, 1983. Applicant: DAILY EXPRESS, INC., 308 Park, P.O. Box 107, Lathrop, MO 64465. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068 (816) 781-6000. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in Cass, Clay, Jackson and Platte Counties, MO, and Leavenworth, Wyandotte and Johnson Counties, KS, on the one hand, and, on the other, those points in MO on and north of a line beginning at the KS-MO Stateline and extending along MO Hwy 150 to its intersection with U.S. Hwy 50, and on and west of a line beginning at the intersection of U.S. Hwy 50 and MO Hwy 13 and extending to the IA-MO State line.

MC 168399, filed June 1, 1983. Applicant: NORBERTO G. PORTALES, d.b.a. PORTALES MOTOR TRUCKING, 2106 N. Commerce, Sunnyside Trailer Park, Harlingen, TX 78550. Representative: David Hughes, 2590 Morgan Ave., Corpus Christi, TX 78405, (512) 882-8284. Transporting *general commodities* (except classes A and B explosives), between points in Hidalgo and Cameron Counties, TX.

MC 168528, filed June 8, 1983. Applicant: INTERMODAL DELIVERY SERVICE, INC., #27 Richmond Industrial Village, South Harbor Way & Wright Ave., Richmond, CA 94804. Representative: Wm. T. Miller, (same address as applicant) (415) 231-0163. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Powell River-Alberni Sales Corp., of San Bruno, CA.

MC 168529, filed June 8, 1983. Applicant: JAN STAUS, d.b.a. INDEPENDENT TRUCKING, P.O. Box 423, Hastings, MN 55033. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *chemicals and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with N-ReN Corporation, of South St. Paul, MN.

Volume No. OP5-299

Decided: June 17, 1983.

By the Commission, Review Board Members Williams, Parker and Joyce. (Parker not participating).

MC 41098 (Sub-113), filed June 7, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833-8884. Transporting *household goods* between points in the U.S., under continuing contract(s) with National Railroad Passenger Corporation, of Washington, DC.

MC 59238 (Sub-72), filed May 25, 1983. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 1200 I St., NW., Washington, DC 20005. Representative: Rebecca Patton, 1500 Jackson St., Suite 422, Dallas TX 75201, (214) 655-7796. Over regular routes, transporting *passengers* between Washington, DC, and junction Interstate Hwys 66, 29, and 211 at or near Centreville, VA, serving all intermediate points; over Interstate Hwy 66.

MC 84739 (Sub-32), filed June 8, 1983. Applicant: SEVERSON TRANSPORT, INC., 624 Albion Rd., Edgerton, WI 53534. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313-963-3750. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, KY, MD, MA, MI, MN, MO, NY, NC, OH, PA, TN, VA, WV and WI.

MC 123748 (Sub-33), filed May 25, 1983. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 230 Old Gate Lane, Milford, CT 06460. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103, (203) 278-1330. Over regular routes, transporting *passengers* between New Haven, CT, and New York, NY, serving all intermediate points: From New Haven over Interstate Hwy 95 to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction Third Avenue Bridge, then over Third Avenue Bridge to Borough of Manhattan, then over city streets to (a) Grand Central Station and (b) Wall Street, and return over the same route.

MC 134088 (Sub-3), filed June 8, 1983. Applicant: FORD L. AND MARIE A. WRIGHT d.b.a. ALL-AMERICAN MOVING AND STORAGE, 4340 Highway 51 N., Memphis, TN 38127-3299. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300 Washington, DC 20006, (202) 466-3778. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980, who are individual shippers, commercial shippers, or government bill-of-lading shippers.

MC 143318 (Sub-4), filed June 9, 1983. Applicant: JENKINS TRUCKLINE, INC., Motley, MN 56466. Representative: Marquita J. Finley, 170 E. 7th Place, Suite 200, St. Paul, MN 55101, (612) 297-8484. Transporting *lime rock*, between Duluth, MN and Wahpeton, ND, under continuing contract(s) with Minn-Dak Farmers Cooperative, of Minnetonka, MN.

MC 45198 (Sub-2(a)), filed June 8, 1983. Applicant: PENN TRANSFER, INC., 131 North Summit St., Akron, OH 44039. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, (614) 228-8575. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

[FR Doc. 83-17178 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rule of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must

follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries for the following to Team Three (3) at (202) 275-5223.

Volume No. OP3-269

Decided: June 17, 1983.

By the Commission, The Review Board, Members Carleton, Dowell, and Williams.

MC 161295 (Sub-1(A)), filed June 3, 1983. Applicant: LIESEL HINGST, d.b.a. BITTERROOT AUTO RETRIEVAL, NW122 Chief Looking Glass, Florence, MT 59833. Representative: John M. Hingst, (same address as applicant), (406) 273-2941. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 168255 filed May 24, 1983. Applicant: DAN HUME BEADLE d.b.a. DAN BEADLE, CUSTOMS HOUSE BROKER, 1235 No. Loop W, Suite #415, Houston, TX 77008. Representative: Dan Hume Beadle (same address as applicant), (713) 869-3102. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168355 filed May 31, 1983. Applicant: GREAT WESTERN TRANSPORTATION CO., INC., P.O. Box 525, Park City, UT 84060. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 168374 filed May 31, 1983. Applicant: B-J SERVICE TRUCKING, INC., Rt. 1, Box 181, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 No. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds and (3) *food and other edible products and byproducts* (except alcoholic beverages and drugs) *intended for human consumption, agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 168375, filed May 31, 1983. Applicant: JOHNNY E. BLAND, P.O. Box A, Jennings, FL 32053. Representative: John W. Greer, III, 925 Healey Bldg., 57 Forsyth St., N.W., Atlanta, GA 30303, (404) 523-1601. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168445, filed June 2, 1983. Applicant: DOT LINES, INC., P.O. Box 27, East Syracuse, NY 13057. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, (716) 265-9510. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 168454, filed June 3, 1983. Applicant: JOURNEY TRANSPORTATION INC., 21 Creamer St., Brooklyn, NY 11231. Representative: Nathan Juliano (same address as applicant), (212) 624-6200. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168455, filed June 3, 1983. Applicant: DAN SAMPLE, P.O. Box 26126, Salt Lake City, UT 84126. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. OP4-383

Decided: June 17, 1983.

By the Commission, Review Board, Members: Joyce, Dowell and Williams. Member Williams Not Participating.

MC 150467 (Sub-3), filed June 13, 1983. Applicant: LAVERGNE EXPRESS, INC.,

P.O. Box 857, Lavergne, TN. Representative: D.R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790-2510. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168606, filed June 8, 1983. Applicant: 21st CENTURY ENTERPRISES LTD., Suite 225, 634 Washington Rd., Pittsburgh, PA 15228. Representative: Jerry B. Sellman, 140 E. Town St., Suite 1200, Columbus, OH 43215, (614) 221-5834. As a *broker of general commodities* (except AK and HI).

[FR Doc. 83-17177 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers: Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: The exemptions will be effective on July 27, 1983. Petitions for reconsideration must be filed by July 18, 1983. Petitions for stay must be filed by July 7, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 toll-free outside the DC area.

By the Commission, Division 1, Commissioners Andre, Taylor, and Gradison. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15129]

Overland Transportation System, Inc.—purchase—Exemption—Rodgers Express, Inc.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioners' representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204

Pleadings should refer to No. MC-F-15129.

Decided: June 16, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a) (2), the proposed acquisition by Overland Transportation System, Inc. (MC-151119) of the operating authority of Rodgers Express, Inc. contained in Certificate No. MC-135944 (Sub-Nos. 1, 2F, 3, 5F, and 6F), authorizing the transportation of general and specified commodities over a network of regular and irregular routes, principally between certain points in Indiana, Illinois, Ohio, and Kansas.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15078]

Glenn's Truck Service, Inc—Purchase Exemption,—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309,

and

(3) Trustee's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701

Pleadings should refer to No. MC-F-15078

Decided: June 20, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a) (2), the proposed purchase by Glenn's Truck Service, Inc., (MC-144683) of the operating authority of Shoemaker Trucking Company MC-139975 contained in MC-138875 (Sub-No. 293). Further, Glenn's is authorized to tack the purchased authority with its existing authority.

[No. MC-15166]

S & L Services, Inc, Purchase exemption Sigma-4 Express, Inc. (James K. McNamers, Trustee-in-Bankruptcy)

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC. 20423.

(2) Petitioner's representative: Terrence D. Jones and Anthony J. Ciccone, JR., Billig, Sher & Jones, P.C., 2033 K St. NW. Washington, DC. 20006.

Pleadings should refer to No. MC-F-15166

Decided: June 15, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(e), the purchase by S & L Services, Inc. of a portion of the authorities issued to Sigma-4 Express, Inc. in No. MC-125023 (Sub-No. 28), involving the transportation of malt beverages and related materials, equipment and supplies on a radial basis between South Volney, NY and points in 5 States and the District of Columbia.

[No. MC-F-15218]

Phantom Freighters, Inc.—Purchase Exemption—Smithway Motor Xpress, Inc.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Rd., Omaha, NE 68114

Pleadings should refer to No. MC-F-15218.

Decided: June 20, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Phantom Freighters, Inc. (MC-165681) of a portion of the oiperating rights of Smithway Motor Xpress, Inc., i.e., Certificate Nos. MC-138627 Sub-Nos. 99F, 112, 113, and 115, authorizing the irregular-route, motor common carrier transportation of (1) foodstuffs, between points in Webster County, IA, on the one hand, and, on the other, points in the U.S. (2) clay, concrete, class or stone products, and building materials, between points in IA, OH, and PA, on the one hand, and, on the other, points in 12 specified States (3) general commodities (with an exception), between points in Polk County, IA, on the one hand, and, on the other, points in the U.S., and (4) metal products and building materials, between points in 19 specified States, on

the one hand, and, on the other, points in the U.S.

[No. MC-F-15232]

Consolidated Freightways, Inc., et al.—Continuance in Control Exemption—CF Arrowhead Services, Inc., et al.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Eugene T. Liipfert, Mark J. Andrews, 1660 L Street, N.W.—Suite 1100, Washington, DC 20036.

Pleadings should refer to No. MC-F-15232.

Decided: June 20, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a) (5), the continuation in control by (a) Consolidated Freightways, Inc. of Consolidated Freightways Corporation of Delaware, Canadian Freightways Limited, and Canadian Freightways Eastern Limited, along with CF Arrowhead Services, Inc., Con-Way Eastern Express, Inc., Con-Way Central Express, Inc., and Con-Way Western Express, Inc., (b) CF Land Transportation, Inc. of Consolidated Freightways Corporation of Delaware, and indirectly of Canadian Freightways Limited, Canadian Freightways Eastern Limited, CF Arrowhead Services, Inc., Con-Way Eastern Express, Inc., Con-Way Central Express, Inc., and Con-Way Western Express, Inc., and (c) CF Land Services, Inc. of CF Arrowhead Services, Inc., Con-Way Eastern Express, Inc., Con-Way Central Express, Inc., and Con-Way Western Express, Inc.

[No. MC-F-15242]

William E. Benckart and W. E. Benckart, Jr.—Continuance in Control Exemption—Moon Freight Lines, Inc., Mid-South Freight Lines, Inc., Louis Shannon, Inc., and Stone Belt Freight Lines, Inc.

ADDRESSES: Sending pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioners' representative: Mr. Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240

Pleadings should refer to No. MC-15242.

Decided: June 17, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by William E. Benckart and W.E. Benckart, Jr., of Moon Freight Lines, Inc., Mid-South Freight Lines, Inc., Louis Shannon, Inc., and Stone Belt Freight Lines, Inc.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17174 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-FC-279

MC-FC-81363. By decision of June 15, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board approved the transfer to R.D.M. HOTSHOT, INC., formerly known as R.D.M. TRUCKING, INC., d.b.a. A.D. RAY TRUCKING, INC., Casper, WY, of Certificate No. MC-158044, issued September 21, 1981, to K & A LEASING CO., INC. (SIDNEY R. THOMAS, TRUSTEE IN BANKRUPTCY), Billings, MT, authorizing the transportation of *unrefined petroleum*, in bulk, in tank vehicles, between points in CO, UT, and WY, within 100 miles of Rock Springs, WY, including Rock Springs. Representative: Eric A. Distad, P.O. Box 2314, Casper, WY 82602.

By the Commission, the Review Board, Members Krock, Williams, and Dowell.

MC-FC 81420. By decision of June 15, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR 1181, the Review Board approved the transfer to NATIONWIDE TRANSPORTATION SERVICES, INC., Clarkville, TN, of Certificate Nos. MC-97394 Sub 4, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 22, 23, 24, 25, 29, 30, 31, 32, 33, 34, 37, 38 and 39, issued January 22, 1970, February 12, 1971, April 1, 1971, March 12, 1971, November 22, 1971 (as corrected), April 11, 1975, July 21, 1975, October 30, 1975, April 2, 1976, June 2, 1977, June 2, 1977, April 27, 1981, September 26, 1980, August 31, 1981, October 15, 1980, November 25, 1980, June 18, 1981, January 9, 1981, January 9, 1981, January 9, 1981, June 12, 1981, December 15, 1981, September 22, 1982, and February 26, 1982, respectively, to BOWLING GREEN EXPRESS, INC., Louisville, KY, authorizing the regular, alternate and irregular route transportation of *general commodities* (with exceptions) generally between various points in KY, TN, MI, OH, AR, IL, and IN, with restrictions. Applicant's Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. (202) 347-8862.

By the Commission, the review Board, Members Fortier, Krock, and Williams.

MC-FC-81444. By decision of June 14, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, the Review Board, approved the transfer to LOAD & GO TRANSPORT, INC., Toronto, Ontario, Canada, a portion of Certificate No. MC-127284 (Sub-No. 1),

issued April 22, 1971, Certificate No. MC-127284 (Sub-No. 1), issued April 22, 1971, Certificate No. MC-127284 (Sub-1 Nos. 2, 3 and 4), issued April 22, 1974, May 8, 1974 and May 24, 1979 respectively, to DOMINION CONSOLIDATED TRUCK LINES LIMITED, Toronto, Ontario, Canada, authorizing the transportation over *regular routes* of (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk and those requiring special equipment), between Niagara Falls, NY, and the port of entry on the United States-Canada Boundary line located on the new Lewiston-Queenston Bridge at Lewiston, NY, serving no intermediate points: From Niagara Falls over Interstate Hwy 190 to junction with the access roads to the new Lewiston-Queenston Bridge, and then over such access roads and the new Lewiston-Queenston Bridge to the port of entry on the United States-Canada Boundary line, and return over the same route. From Niagara Falls over NY Hwy 18 to junction Upper Mountain Road, Lewiston, NY, then over Upper Mountain Road to junction Interstate Hwy 190, then over Interstate Hwy 190 to junction with the access roads to the new Lewiston-Queenston Bridge, and then over such access roads and the new Lewiston-Queenston Bridge to the port of entry on the United States-Canada Boundary line, and return from the port of entry on the United States-Canada Boundary line over the new Lewiston-Queenston Bridge and its access roads to junction NY Hwy 18, and then over NY Hwy 18 to Niagara Falls, (2) *cork rods*, in bulk, from Buffalo, NY, to the port of entry on the United States-Canada Boundary line at Buffalo, serving no intermediate points: From Buffalo over the Peace Bridge to the port of entry on the United States-Canada Boundary line and return over the same route with no transportation for compensation except as otherwise authorized, (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment, serving the plant site of Ford Motor Company in Plymounth Township (Wayne Country), MI, as an off-route point in connection with carrier's regular-route operations authorized herein from and to Detroit, MI. Between Buffalo, NY and the United States-Canada Boundary line at Niagara Falls and Buffalo, NY, serving all intermediate points and the off-route points of Lackawanna and Blasdell, NY: From Buffalo over NY Hwy 266 to junction NY Hwy 384, and then over NY Hwy 384 to the United States-Canada Boundary line at Niagara Falls, and return over the same route. From Buffalo over NY Hwy 265 to junction NY Hwy 429, then over NY Hwy 429 to junction U.S. Hwy 62, then over U.S. Hwy 62 to the United States-Canada Boundary line at Niagara Falls, and return over the same route. From Buffalo over NY Hwy 5 to junction NY Hwy 263, then over NY Hwy 263 to junction NY Hwy 78, then over NY Hwy 78 to Lockport, NY, and then over NY Hwy 31 to the United States-Canada Boundary line at Niagara Falls, and return over the same route. From Buffalo over Peace Bridge to the United States-Canada Boundary line at Buffalo, and return over the same route. Between Detroit, MI and the port of entry located on the United States-Canada Boundary line at Detroit, MI, serving all intermediate points: From Detroit over city streets to the ports of entry located on the United States-Canada Boundary line, and return over the same routes, (4) *general commodities* (except classes A and B explosives and household goods), between Port Huron, MI and the ports of entry located on the United States-Canada Boundary line at Port Huron, MI, serving all intermediate points, and those off-route points located within 8 miles of the junction of Military and Water Streets, Port Huron, MI: From Port Huron over city streets to the ports of entry located on the United States-Canada Boundary line at Port Huron, and return over the same routes, (5) over *irregular routes, general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods, commodities in bulk, and those commodities requiring special equipment), Between the ports of entry on the United States-Canada Boundary line at Buffalo, NY, on the one hand, and, on the other, Buffalo, NY. Between points in New York within 5 miles of Buffalo, NY, excluding Buffalo, on the one hand, and, on the other, the ports of entry on the United States-Canada Boundary line at Buffalo and Niagara Falls, NY. Between the port of entry on the United States-Canada Boundary line at Niagara Falls, on the one hand, and, on the other, Buffalo and Niagara Falls, NY, (6) over *regular routes, general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), serving the plant site and facilities of Ford Motor Company at or near Romeo, MI, as an off-route point in connection with carrier's authorized regular-route operations to and from Port Huron and Detroit, MI, and (7) over *irregular routes, general commodities* (except articles of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), (1) between Port Huron, MI, and the ports of entry on the international boundary line between the United States and Canada on the Detroit River, and (2) between Detroit, MI and the ports of entry on the international boundary line between the United States and Canada on the St. Clair River, restricted in (1) and (2) to the transportation of traffic originating at or destined to points in the Provinces of Quebec and Ontario, Canada. A temporary authority application has been filed. Representative: Owen B. Katzman, 1828 L Street, N.W., Washington, D.C. 20036, (202) 822-8200.

By the Commission, the Review Board, Members Carleton, Krock, and Dowell.

Volume No. OP3-FC-283

MC-FC-81514. By decision of June 17, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board approved the transfer to RELOCATION SERVICES, INC., Wilmington, DE, of Certificate No. MC-138294, issued August 8, 1973, to BRANDYWINE MOVING AND STORAGE CO., Wilmington, DE, authorizing the transportation of *household goods*, (a) between points in NJ and DE within 35 miles of Chester, PA, on the one hand, and points in that part of PA on and east of U.S. Highway 219, on the other, and (b) between Chester, PA, and points within 15 miles thereof, on the one hand, and, on the other, points in RI, CT, DE, MA, MD, NJ, NY, VA, and DC. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113.

Note.—An application for temporary authority has been filed.

By the Commission, the Review Board, Members Krock, Dowell, and Carleton.

For the following, please direct status calls to Team 2 at 202-275-7030

Volume No. OP2-FC-278

MC-FC-81534. By decision of June 20, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Members Parker, Krock, and Williams, approved the transfer to WILSON W. CHATFIELD, d.b.a. L-W SUPPLY, of Columbus, NE, of Certificate No. MC-123163, issued August 14, 1961, to LARRY A. MASSMAN, d.b.a. MASSMAN TRANSPORTATION CO. (CATHERINE M. MASSMAN

PERSONAL REPRESENTATIVE OF LARRY A. MASSMAN, DECEASED), of Columbus, NE, authorizing the transportation, as a common carrier, over irregular routes, of inedible beef tripe and beef livers, and inedible frozen whole eggs and poultry offal in mixed shipments with the proceeding commodities, from points in KS, MO, NE, IA, MN, IL, MI, SD, and AR, to points in UT. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488–4841.

For the following, please direct status calls to Team 4 at 202–275–7669

Volume No. OP4–FC–384

MC–FC–81242, filed February 18, 1983. By decision of June 21, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Members Krock, Williams, and Dowell, approved the transfer to HARRISON TRANSPORTATION CO. INC., Wichita Falls, TX, of Certificate No. MC–123407 (Sub-No. 151), issued August 29, 1974, to SAWYER TRANSPORT, INC., Chesteron, IN, Authorizing the transportation of *flat glass*, from the plant site of PPG Industries, Inc., at Wichita Falls, TX, to points in the U.S. (except AK and HI). An application for temporary authority has been filed. Representatives: Wes R. Harrison, 1705A Sheppard Access Rd., Wichita Falls, TX 76304. (817) 767–7041, for transferee and Carl L. Steiner, 135 S. LaSalle St., Chicago, IL 60604. (312) 236–9575, for transferor.

FC–81501, filed May 25, 1983. By decision of June 16, 1983, issued in accordance with 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board Members Joyce, Dowell, and Carleton, approved the transfer to Gary Stecher, d.b.a. Ralph's Transfer & Storage, the Dalles, OR, of Certificate No. MC–107956, issued August 9, 1966, to Ralph's Transfer & Storage, Inc., The Dalles, OR, authorizing the transportation of household goods, between points in Wasco County, OR, and between points in Wasco County, OR, on the one hand, and, on the other, points in Klickitat and Skamania Counties, WA. Representative: Anne K. Schneider, 1630 Beavercreek Rd., #G, Oregon City, OR 97045 (503) 657–4748.

MC–FC–81528, filed June 9, 1983. By decision of June 17, 1983, issued under 49 U.S.C. 10926, Review Board Members Joyce, Williams and Dowell approved the transfer to HOLIDAY TRAVEL, INC., Eau Claire, WI, of Certificate No. MC–148967, issued November 5, 1980, to HOLIDAY COACH LINES, INC., Eau Claire, WI, authorizing the transportation of *passengers and their baggage* in the same vehicle with passengers in round trip special and charter operations, beginning and ending at points in Dane, Dodge, Jefferson, Juneau, Rock, Sauk, and Waukesha Counties, WI (Dane and Waukesha Counties will be restricted to special operations only), and extending to points in the U.S., including AK, but excluding HI. Representative: Douglas P. Stoffers, 618 S. Barstow, Eau Claire, WI 54701, (715) 834–5555, for both transferee and transferor.

[FR Doc. 83-17173 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30171]

Grand Trunk Western Railroad Co.—Abandonment and Trackage Rights Exemption—Kalamazoo, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts (1) the abandonment by the Grand Trunk Western Railroad Company (GTW) of approximately 1.8 miles of line in Kalamazoo, MI from prior approval under 49 U.S.C. 10903 *et seq.* and (2) GTW acquisition of trackage rights over a parallel Consolidated Rail Corporation line in Kalamazoo, MI from the prior approval requirements of 49 U.S.C. 11343. Related connecting track construction is exempted from requirements of 49 U.S.C. 10901. Standard labor protection conditions are imposed.

DATES: This exemption shall be effective on July 27, 1983. Petitions to stay the effectiveness of this decision must be filed by July 7, 1983. Petitions for reconsideration must be filed by July 18, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30171 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: John C. Danielson, 131 West Lafayette Boulevard, Detroit, MI 48226.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: June 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17172 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30186]

Tongue River Railroad Co.—Rail Construction and Operation—In Custer, Powder River, and Rosebud Counties, MT

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing an application.

SUMMARY: The Tongue River Railroad Company (TRRC) a limited partnership consisting of Transportation Properties, D.S. Cartage Corporation, Otter Creek Transportation Company, and Tongue River Holdings, Inc., has filed an application seeking authority to construct and to operate an 89-mile rail line between Miles City, MT and two terminal points, one in Rosebud County, and one in Powder River County, MT. The proposed line would begin in Miles City and extend approximately 72.3 miles south to a point near Ashland, MT. There it would divide, with one branch proceeding 8.9 miles up the Tongue River Valley to the proposed Montco Mine, and the other branch extending 7.7 miles up to the Otter Creek drainage.

The purpose of the rail line is to transport subbituminous coal from several proposed mine sites in Rosebud and Powder River Counties to the terminus in Miles City. Other commodities (mining supplies and equipment) may also be transported on the railroad.

The Commission will issue a draft environmental impact statement to assess the environmental impacts of the proposal, which will be available for public inspection in the Washington, DC headquarters of the Commission. On the basis of comments received and the assessment of the Commission's Section on Energy and Environment, the Commission will decide if a hearing is necessary.

DATES: (1) Comments (five copies) must be filed by July 7, 1983.

(2) TRRC may file replies to the comments by July 12, 1983.

ADDRESSES: Send comments referring to Finance Docket No. 30186 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423
(2) Applicant's representatives: Thomas E. Ebzery, Village Center 1, 1500 Poly Drive, Billings, MT 59102
David M. Schwartz, Robert L. Calhoun, Sullivan and Worcester, 1025 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17175 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Released Rate Application No. FF-457]

Triple R Forwarding Inc.; Released Rates Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No FF-457.

SUMMARY: Mr. Bruce J. Robbins, for and on behalf of Triple R Forwarding Inc., for whom he represents, seeks authority under 49 USC 10730 to amend Released Rates Order No. FF-133, to increase the released valuation on shipments of Baggage and Personal Effects of Campers, Between points in various eastern states. The proposed released valuation provides as follows:

Released Valuation

(a) Released to a value not exceeding $200 for each trunk containing wearing apparel, toilet articles and personal effects.

Released to a value exceeding $200 for each trunk but not exceeding $500 for each trunk

(b) Released to a value not exceeding $200 for each duffle bag or piece of hand baggage containing wearing apparel, toilet articles and personal effects.

Released for a value exceeding $200 per duffle bag or piece of hand baggage containing wearing apparel, toilet articles and personal effects, but not to exceed $300 per duffle bag or piece of hand luggage.

ADDRESS OF APPLICANT: Mr. Bruce J. Robbins, Attorney at Law, Robbins & Newman, 18 East 48th St., New York, NY 10017, Tel. (212) 755-9400.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Thompson, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275-6883.

SUPPLEMENTARY INFORMATION: Relief is sought under 49 U.S.C. 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17176 Filed 6-24-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

June 21, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, July 11-12, 1983. The meeting on Monday and Tuesday will be held in Rooms 416 and B-100 at the Page Building #1, 2001 Wisconsin Avenue, NW., Washington, DC. The committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the president and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The Tentative Agenda is as follows:

Monday, July 11, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416, B-100, & B-100A, Washington, D.C.

9:00 a.m.-12:30 p.m.—Plenary.

9:00 a.m.-9:15 a.m.—Announcements, Room 416.

9:15 a.m.-12:00 Noon—Committee discussion of proposed: National Ocean Policy Commission and Independent Agency Status for NOAA, Room 416.

12:00 Noon-1:00 p.m.—Lunch.

1:00 p.m.-5:00 p.m.—Panel meetings.

1:00 p.m.-5:00 p.m.—Shipbuilding/Shipyards, Chairman: Don Walsh, Room 416, speakers: TBA.

1:00 p.m.-5:00 p.m.—Wetlands, Chairman: Sharron Stewart, Room B-100, topic: Panel Work Session, speakers: None.

1:00 p.m.-3:00 p.m.—Weather Satellites, Chairman: Fitzgerald Bemiss, Room B-100A, topic: Panel Work Session, speakers: None.

5:00 p.m.—Recess.

Tuesday, July 12, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 & B-100, Washington, D.C.

8:30 a.m.-10:30 a.m.—Panel meetings: Ocean Research (Undersea Technology), Chairman: Sylvia A. Earle, Room 416, topic: Panel Work Session, speakers: None, and Radioactive Waste Disposal, Chairman: John A. Knauss, Room B-100, topic: Pannel Work Session, speakers: None.

10:30 a.m.-12:30 p.m.—Plenary: Review and Approval of Marine Minerals Reports, Panel Chairman: Burt Keenan, Room 416, speakers: None.

12:30 p.m.-1:30 p.m.—Lunch.

1:30 p.m.-3:30 p.m.—Plenary: Action Items: (1) Review of Proposed Position on Undersea Technololgy, Panel Chairman: Sylvia Earle, (2) Wetlands (tentative), and (3) Satellites (tentative); Panel Reports.

3:30 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: June 22, 1983.

Steven N. Anastasion,

Executive Director.

[Fr Doc. 83-17171 Filed 6-24-83; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-60]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: August 1-4, 1983, 8:30 a.m. to 5:30 p.m. each day.

ADDRESS: Stonebridge Condominiums, P.O. Box 5990, 30 Anderson Lane, Snow Mass Village, Colorado 81615.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy A. Fick, National Aeronautics and Space Administration, Code EL-4, Washington, DC 20546 (202/755-4321).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. David M. Morrison and is composed of six other members of the Council and its standing committees, who will meet with about 9 other invited participants and certain NASA pesonnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of meeting: Open.
Agenda:
August 1, 1983
8:30 a.m.-Status of Core Program.
9 a.m.-Mission Operations Subcommittee.
1 p.m.-Current Technology Issues.
August 2, 1983
8:30 a.m.-Outer Planets Subcommittee.
1 p.m.-Inner Planets Subcommittee.
4 p.m.-Small Bodies Subcommittee.
August 3, 1983
8:30 a.m.-Resources.
1 p.m.-Comments from Guests.
August 4, 1983
8:30 a.m.-Subgroup Meetings and Writing.
1 p.m.-Meeting summary, arrangements for next meeting.

Dated: June 21, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-17133 Filed 6-24-83; 8:45 am]

BILLING CODE 7510-01-M

PEACE CORPS

Forms Submitted to OMB for Review

AGENCY: Peace Corps.

ACTION: Notice of submission of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of the Peace Corps Volunteer Delivery System Questionnaire through September 30, 1986. The form is completed voluntarily by those invited to attend Centers for Assessment and Training. The Questionnaire provides information concerning individual experiences in being processed through the Volunteer Delivery System. This information is necessary for Peace Corps to evaluate the effectiveness of the Volunteer Delivery System. Though there are demographic questions, such questions will not/cannot be used to identify specific individuals who have filled out the Questionnaire. Information about the form:

Agency Address: Peace Corps, 806 Connecticut Avenue, N.W., Washington, D. C. 20526.

Title: Peace Corps Volunteer Delivery System Questionnaire.

Type of Request: Approval of use.

Frequency of Collection: On occasion.

General Description of Respondents: Individuals who have attended Centers for Assessment and Training.

Estimated Number of Responses: 250 annually.

Estimated Hours for Respondents to Furnish Information: Thirty (30) minutes each.

Respondents Obligation to Reply: Voluntary

Comments: Comments on this form request should be directed to Francine Picoult, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D. C. 20503. Comments should be received on or before August 26, 1983. A copy of the form may be obtained from Bruce DeAtley, Office of Placement, 806 Connecticut Avenue, N.W., Room 906, Washington, D.C. 20526. Mr. DeAtley may be called on area code 202-632-6595.

This is not a request to which 44 U.S.C. 3504(h) applies.

This notice is issued in Washington, D.C. on June 22, 1983.

Robert T. Spencer,

Associate Director for Management.

[FR Doc. 83-17212 Filed 6-24-83; 8:45 am]

BILLING CODE 6051-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Heinemann's, Inc, et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has, on the basis of a joint request from Heinemann's Inc., and Davidson's, Inc., granted an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on March 10, 1983 (48 FR 10154). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1984, as amended ("ERISA"), 29 U.S.C. 1374, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant

individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purpose of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On March 10, 1983 (48 FR 10154), the PBGC published a notice of the pendency of a joint request from the purchaser, Heinemann's Inc. ("Heinemann"), and the seller, Davidson's, Inc. (now known as Thorndale Corp.) "Davidson"), (collectively referred to as the "Parties") for an exemption from the requirement of ERSIA section 4204(a)(1)(B), in connection with a sale of assets that was effective August 2, 1982.

Davidson contributed to the United Food and Commercial Workers Unions and Employers Midwest Pension Fund (formerly known as the Retail Clerks Unions and Employers Midwest Pension Plan and Pension Fund) (the "Fund"). Davidson's potential withdrawal liability to the Fund has been estimated to be $47,662. The amount of the bond or escrow required under ERISA section 4204(a)(1)(B) is $21,118, (the annual contribution required to be made by Davidson for the 1981 plan year, the plan year preceding the sale).

A copy of Heinemann's audited financial statements for the three fiscal years preceding the sale were submitted as part of the application. However, Heinemann has asserted that the financial information is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)) and PBGC regulation (29 CFR 2603.18).

The Parties argue that the request should be granted because it is *de minimis* in nature. The Parties have pointed out that, based on information provided by the Fund, the amount of the bond is a very small fraction, approximately one eighth of one percent (0.12%), of the average annual contributions made by all employers to the Fund in the three plan years preceding the sale ($18.3 million). Accordingly, the parties have argued that relief is warranted under section 4204(c). When the notice of pendency for this request was published, PBGC indicated that it was considering granting this request for an exemption on a *de minimis* basis. No comments were received in response to the notice.

PBGC believes finds that when the amount of the bond/escrow is very small in comparison to the total annual contributions to a plan, an exemption from the bond/escrow requirement would not significantly increase the risk of financial loss to the plan. Absence of risk is further demonstrated when the amount of the withdrawl liability involved is also very small.

Therefore, based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that this request is *De minimis* in nature and thus an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purpose of Title IV of ERISA and would not significantly increase the risk of financial loss to the fund. Accordingly, PBGC hereby grants the request by the Parties for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C., on this 21st day of June, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-17179 Filed 6-24-83; 8:45 am]

BILLING CODE 7708-01-M

POSTAL RATE COMMISSION

Commission Staff Members; Visit

June 22, 1983.

Notice is hereby given that Commission Staff Members will visit the Philadelphia, Pennsylvania Sectional Center Facility of the U.S. Postal Service on Wednesday, June 29, 1983, to observe the automated sorting equipment used as part of the ZIP + 4 Program.

A report of the visit will be on file in the Commission's Docket Section.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83-17210 Filed 7-24-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19895; File No. SR-MSRB-83-6]

Self-Regulatory Organizations; Proposed Rule Changes by Municipal Securities Rulemaking Board; Relating to Uniform Practice and Customer Confirmations

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 June 3, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith amendments to rules G–12 on uniform practice and G–15 on customer confirmations. The text of the proposed rule changes is as follows:

Rule G–12.[1] Uniform Practice

(a) and (b) No change.

(c) Dealer Confirmations.

(i) through (v) No change.

(vi) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) through (D) No change.

(E) any special instructions or qualifications, or factors affecting payment of principal or interest, such as *(1)*[(A)] "ex legal," or *(2)*[(B)] if the securities are traded without interest, "flat," or *(3)*[(C)] if the securities are in default as to the payment of interest or principal, "in default", *or (4) with respect to securities with periodic interest payments, if such securities pay interest on other than a semi-annual*

[1] Italics indicate new language; [brackets] indicate deletions.

basis, a statement of the basis on which interest is paid; and

(F) No change. (d) through (1) No change.

Rule G–15. Customer Confirmations

(a) and (b) No change.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) through (v) No change.

(vi) any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default", *or (D) with respect to securities with periodic interest payments, if such securities pay interest on other than a semi-annual basis, a statement of the basis on which interest is paid; and*

(vii) No change. (d) through (i) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) Board rules G–12 and G–15 set forth certain requirements concerning the information to be provided on inter-dealer and customer confirmations, respectively. Among other matters, confirmations are required to state any unusual aspects of the securities relating to the payment of principal or interest.

The proposed rule changes would require that, if the securities involved in a transaction are periodic-interest securities paying interest on other than a semi-annual basis (*e.g.*, annually or quarterly), the confirmation of the transaction must state the basis on which interest is paid.

(b) The proposed rule changes are adopted pursuant to section 15B (b)(2)C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules

designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, * * *, and, in general, to protect investors and the public interest * * *.

The Board believes that purchasers of periodic-interest municipal securities, both municipal securities professionals and investors, assume that such securities will pay interest on a semi-annual basis, since the vast majority of such securities pay interest in this fashion. The payment of interest on an alternative basis may be of concern to such purchasers, particularly investors, since this alternative payment basis may not accord with their cash flow needs or reinvestment plans, or may have implications for their operational procedures (*e.g.*, if securities paying interest on a more frequent cycle are available only in registered form, they would have to be transferred quickly to prevent misdirection of the next interest payment.).

The Board believes that the proposed rule changes act to protect investors by ensuring that they, and municipal securities brokers and dealers dealing with them, are advised of unusual interest payment features of securities they are purchasing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule changes will impose any burden on competition, inasmuch as the proposed rule changes merely specify an item of detail to be included on confirmations, and will affect all brokers and dealers selling securities with unusual interest payment features equally.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule changes from industry members or others.

III. Date of Effectiveness of the Proposed Rule Changes 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 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 also will 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: June 20, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-17156 Filed 6-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19894; File No. SR-MSRB-83-5]

Filing of Proposed Rule Change by Municipal Securities Rulemaking Board

June 20, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(B)(1) notice is hereby given that on June 3, 1983, the Municipal Securities Rulemaking Board ("MSRB") filed with the Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends MSRB Rule G–15 to require that when the yield of a municipal securities transaction effected on a dollar basis is calculated to premium call or par option, this fact must be stated on the customer confirmation along with the call or option date and price used in the yield calculation. Currently, Rule G–15 requires such confirmation disclosure only when the dollar price of a municipal securities transaction effected on a yield basis is computed to premium call or par option. The MSRB believes that the proposed rule change will make

the requirements of G–15 internally consistent, will help customers know the exact basis on which their securities yield would be realized and ensure that dealers and customers agree on the determinants of the yield calculation.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Referfence should be made to File No. SR–MSRB–83–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–17245 Filed 6–24–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13339; 812–5548]

New LBC Corporation; Filing of an Application

June 20, 1983.

Notice is hereby given that The New LBC Corporation ("Applicant") c/o Stephen J. Friedman, Esq., Debevoise & Plimpton, 875 Third Avenue, New York, NY 10022, filed an application on May 10, 1983, and an amendment thereto on June 14, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of Section 3 of the Act.

Applicant represents that it is a Delaware corporation through which a small group of financial institutions—predominantly European—propose to acquire and manage interests in United States companies and real estate. The application states that the shareholders of Applicant will include Groupe Bruxelles Lambert, S.A., a Belgian financial holding company ("GBL"), other foreign institutional investors, and United States investors.

The application represents that GBL will contribute most of its existing United States assets to Applicant, including a large block of debt and equity securities of the Drexel Burnham Lambert Group Inc., the parent company of Drexel Burnham Lambert Inc.; United States real estate investments and stakes in a number of United States companies; and cash. GBL's contribution to Applicant will entitle it to ownership of between 51 and 80 percent of Applicant's voting securities, with the exact percentage depending on the level of participation of the other investors. Applicant further represents that its shares will not be redeemable at the option of the holder.

According to the application, GBL proposes to permit a small number of financial institutions in Europe and elsewhere outside the United States to participate in Applicant. Applicant represents that it does not expect that any of those investors will own more than 10% of its voting securities or, in any event, that their respective investments in Applicant will account for more than 10% of their respective gross assets.

Applicant further states that a small number of wealthy and sophisticated United States investors may also participate in Applicant. In addition, Applicant maintains that it may issue shares and share rights to its key United States employee as part of its compensation program. Applicant represents that it will take appropriate measures to ensure that direct and indirect United States ownership of Applicant will be limited to a small group of such investors. To this end, Applicant represents as follows:

(1) No more than twenty-five United States persons, including both outside investors and employees of Applicant, will be shareholders of Applicant at any given time. For the purpose of calculating the number of United States shareholders, the attribution rules under Section 3(c)(1)(A) of the Act shall apply.

(2) Each United States investor other than employees of Applicant will acquire shares of Applicant valued at no less than $2 million and each such investor will agree that any transfer to another United States investor will either include all such shares or shares valued at no less than $2 million. Any United States transferee will enter into a similar agreement.

(3) Applicant will not issue shares to United States citizens or residents if the outstanding shares owned by United States citizens or residents exceed 10 percent of its outstanding shares.

(4) Non-United States shareholders will be prohibited from transferring their shares to United States residents or citizens.

(5) Employees of Applicant will be prohibited from transferring their shares to any person other than Applicant or GBL.

Finally, the application represents that neither Applicant nor any of its subsidiaries has any intention of making a public offering of its shares in the United States and that Applicant will notify the Commission within 10 days of sales of its shares to United States investors or at the end of any quarter in which it becomes aware that shares of GBL have been acquired by such investors.

The application states that GBL will own more than 10% of Applicant's voting securities and its investment will constitute more than 10% of its gross assets. Accordingly, under Section 3(c)(1) of the Act, Applicant represents that GBL's ownership of Applicant would be attributed to its shareholders. Since there are many public shareholders of GBL in Europe, Applicant asserts that it could be regarded as an investment company under Section 3 of the Act. In addition, Applicant represents that one of the foreign institutional investors in Applicant will be Pargesa Holding S.A. ("Pargesa"), a Swiss holding company. Pargesa owns 12.9% of the shares of GBL directly, and also has interests in two other companies which own GBL shares. If Pargesa's indirect interest in Applicant (through its ownership of GBL's shares) is added to its direct interest, it would be deemed to hold over 10% of the voting shares of Applicant and its investment in Applicant would represent more than 10% of its gross assets.

Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from all provisions of the Act. In support of this request, Applicant represents that there is no public United States investor interest in Applicant, direct or indirect. Further, Applicant states that the purpose the Section 3(c)(1) attribution rules is to define those situations in which there is significant public shareholder interest in pools of portfolio securities, and to prevent the interposition of intermediary

corporations as conduits for distribution of a true investment company's securities to the general public. The application states that GBL's investment in Applicant, although exceeding the 10 percent of assets threshold set in Section 3(c)(1) of the Act, still represents a small portion of its assets. Applicant maintains that GBL cannoJ fairly be characterized as a conduit to distribute Applicant's securities to the general public.

Applicant represents that, more generally, the economic realities of Applicant's assets, proposed activities and ownership, viewed as a whole, are not of a character intended to be regulated by the Act. Finally, Applicant states that possible application of the Act is triggered by a number of corporate events having no bearing whatsoever on the need for protection of GBL's shareholders—the only public shareholders who would be "protected" by the Act. Those public shareholders already own a substantial indirect interest in Drexel Burnham. Applicant argues that, as a practical matter, it is irrelevant to those shareholders whether GBL's interest in Drexel Burnham is held in the current form or is lodged in a separate corporation.

Section 6(c) of the Act states, in pertinent part, that the Commission, by order upon application, may, conditionally or unconditionally exempt any person, security or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-17247 Filed 6-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19896; SR-NYSE-83-20]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

June 20, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 14, 1983, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, [1] which Items have been prepared by the self regulatory organization. The Commission is publishing this notice to solicit comment 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 proposed rule change consists of procedures to be followed by members and member organizations to implement enhancements to the NYSE's Designated Order Turnaround ("DOT") System and Limit Order ("LMT") System. The key aspects of the proposed procedures are:

- Will effect, at maximum, 100 stocks.[2]
- Involves system-generated reporting of DOT and LMT orders if the specialist fails to report an execution under certain circumstances and within prodetermined periods of time.
- The specialist will guarantee the prices of system-generated reports except under certain circumstances.
- No fee or other charge will be made by the specialist for the execution of DOT orders.
- Universal contra comparison will be introduced to the LMT System.

[1] Subsequent amendments to this rule filing were submitted by the Exchange to the Commission on June 17, 1983. *See* Letter to Michael Cavalier, Branch Chief, Division of Market Regulation, from James E. Buck, Secretary, NYSE, dated June 17, 1983.

[2] The NYSE also has filed a proposed rule change that would extend the DOT enhancements to all NYSE stocks. *See* SR-NYSE-83-21.

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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to facilitate the implementation and operation of certain enhancements to the Exchange's DOT and LMT System in order to ensure timely reporting of executions through these systems and to increase the cost-effectiveness and efficiency of processing such executions. These enhancements represent a continuation of the Exchange's efforts to upgrade its system support facilities.

The procedures to be followed in implementing the DOT and LMT enhancements are intended as "rules" and therefore constitute a "proposed rule change" within the meaning of Rule 19b-4 under the Act. If approved by the Commission, they would supersede any existing rules of the Exchange inconsistent therewith.

The Exchange plans to implement the various enhancements in stages as specified below. Moreover, the LMT enhancement may not be implemented Floor-wide initially, but may be expanded on a gradual basis as to stocks and LMT subscribing member organizations. In addition, the DOT enhancements will be limited to, at most, 100 stocks.

DOT System Enhancements

The Exchange is proposing to provide system-generated reports for DOT orders in, at maximum, 100 stocks, whenever the specialist fails to report an execution or a "stop" [3] once five minutes has elasped [4] after such order

[3] A "stop" constitutes a guarantee by a member, *i.e.*, the specialist, to purchase or sell securities named in an order at a specified price.

[4] In an amendment to SR-NYSE-83-20, the NYSE indicated that although the system initially will utilize a five minute period before which an automatic execution report will be generated, the

reaches the Floor (target date late-June 1983). In addition, if the specialist "stops" an order, he will have until 30 minutes after the "stop" is issued to report an execution before the system generates an automatic report at the "stop" price (target date—September, 1983).

According to Exchange statistics for the month of April, 1983, 85.2% of all DOT orders were responded to by the specialist (*i.e.*, he issued execution or "stop" reports) within two minutes of the receipt of such orders on the Floor; 94.5% were responded to within five minutes. System-generated reporting is not intended to replace the existing procedures the specialist uses to report an execution or a "stop" using marksense DIAN cards. Rather, the enhancement is designed to ensure that *all* DOT orders are responded to on a timely basis. The proposed procedures provide the Exchange with the flexibility to set and change the number of minutes for system-generated reporting as it deems appropriate. This flexibility allows the Exchange to make adjustments based on its experience with this aspect of the system and as necessary from time to time, based on the effect of high volume periods or other market-related factors.

The price of system-generated reports will be based on a reference price which is appended to each individual or accumulated order ("bunch").[5] Individual or bunched orders will reflect a price based on the "Tape reported" last NYSE sale just prior to the order or bunch being delivered to the Floor by the system. However, note that if a DOT order has been "stopped", the price of the system-generated report will be at the "stop" price as indicated above. Recognizing that occasionally sales will be reported to the Tape at erroneous prices by staff reporters, the procedures provide that specialists and member organizations will not be required to accept system-generated reports at prices resulting from such errors. Through operational means, such erroneous system-generated reports can be cancelled by the Exchange and the order reinstated or the execution price corrected, as appropriate given the situation. The proposed procedures also enhance the efficiency of the DOT System's error correcting procedure. As is presently the case, the specialist will continue to be required to guarantee the execution prices he reports through the system unless the DOT subscribing organization requests a price correction and, provided the erroneous price is no more than one-half of a point away from the actual price.[6] In accordance with the proposed procedures, if the specialist fails to report an execution through DOT within the predetermined number of minutes and as a result, the system generates a report at the last sale reference price noted above, the price of such report shall be binding (except as indicated above with respect to Tape reporting errors) and the specialist will absorb *in its intirety*, any difference between the reported price and the price of the execution, unless the DOT subscribing organization requests a price correction. In the latter case, the specialist shall correct the execution report sent through the system to the price of the execution, if he receives the request for a price correction prior to the opening on the third business day following the day of the transaction.

In order to illustrate this procedure, assume that the NYSE quotation in a stock at the time a DOT sell order is delivered to the Floor by the system was 20 bid; offered at 20¼ and the "Tape reported" last NYSE sale just prior to the order being delivered to the Floor was 20⅛. The specialist executes the DOT order at 20, reports the transaction to the Tape at the price, but fails to return the report to the system within five minutes. This results in his receiving a confirmation of a system report at 20⅛ the (last sale reference price on the order). Under the proposed procedures, the buyer on the transaction would receive a price of 20, which was the price of the execution and the seller would receive a price of 20⅛ which was the price of the system-generated report. The specialist will be required to absorb the difference between these prices, unless the DOT subscribing organization, *i.e.*, the seller in this example, requests a price correction. Note that this procedure does not affect the specialist's present procedure for reporting DOT transactions to the Tape at the price of the execution.

The above error correcting procedure is cost-effective to member organizations who normally average $75 per trade to correct an erroneous price. Having the specialist guarantee the prices of system-generated reports also provides an incentive for the specialist to report DOT executions before such reports are generated, *i.e.*, within five minutes. The percentage of DOT orders which the procedure may be affecting is quite small. As noted above, during April 1983; 94.5% of all DOT orders were responded to by the specialist within five minutes. Thus, in the present scenario, the procedure may affect approximately 5.5% of DOT orders, and only in cases where there is a price disparity between the price of the execution and the system-generated reporting price.

The Exchange also has addressed situations in which the specialist receives a confirmation of a system report and due to an error, the specialist had not executed the order or was unaware of having received the order on which such report is based. The Exchange recognizes that such situations whereby the specialist has not executed a DOT order within five minutes will be infrequent. Referring again to the above DOT "turnaround" statistics for April, of the approximately 5.5% of DOT orders which had not been responded to by the specialist within five minutes, it is likely that a significant portion of such orders had been executed or "stopped" within that time but that the specialist had failed to report the execution or "stop" to the system. The Exchange considers instances in which a DOT order was not executed or "stopped" for whatever reason to be an error because the DOT System delivers market orders that are executable immediately upon reaching the Crowd. Therefore, in the normal case, they are immediately executed or "stopped" especially given the relatively small size of such orders. The Exchange has provided the following procedure which the specialist will follow in unusual cases where the system generates a report on an order which the specialist had not executed:

- If such system-generated report is delivered to the Floor and the reported price of the execution is at the current quotation on the Floor at that time (buy on offer or sell on bid) and such current quotation is on behalf of the book or the Crowd, the specialist shall give up to the book or the Crowd, based on priority. In the event the specialist has priority over an order in the Crowd at the price of the current quotation, he may retain priority and accept the report for his own account.

- If such system-generated execution report is delivered to the Floor and the reported price of the execution is either between or outside the current quotation on the Floor at that time, the specialist accepts the execution for his own

---

NYSE intends to retain discretion in adjusting this time frame. The NYSE, however, stated that it first will obtain Commission approval under Rule 19b-4 before it shortens the time period to less than three minutes.

[5] DOT orders are "bunched" if the Active Stock Feature is activated in a stock. *See* SR-NYSE-82-21.

[6] *See* filing SR-NYSE-82-17 for an explanation of the Exchange's modification of Rules 123A.47 and 411 in order to have the specialist guarantee the execution prices reported via the DOT System.

account.[7] That Exchange recognizes that such system-generated execution reports, if not uniquely identified on the Tape, would occasionally appear to be trade-throughs.[8] In order to avoid the need to go through the trade-through rules complaint/response procedure in such instances, system-generated reports which reach the Floor at a price which is outside the composite quotation at that time will be printed as sold sales which is the only currently available means of indentifying such trades on the Tape. In view of the few expected instances in which the specialist will not have executed or "stopped" a DOT order, as explained above, the Exchange does not expect this procedure will materially increase the number of sold sales which are reported to the Tape.

A further cost-effective measure to member organizations is provided by the fact that no fee or other charge will be made by the specialist for the excution of DOT orders (later June 1983). This measure also enhances the Exchange's competitive position in relation to executions of small orders in systems in other market centers such as PACE (Philadelphia Stock Exchange) and SCOREX (Pacific Stock Exchange). It is the NYSE's understanding that such systems also do not provide for the specialist to charge a fee for executions.

Other system improvements are being made to reduce paper handling on the Floor and the specialist's workload and to facilitate the comparison of transactions through the system. The following is a summary of these changes (late June 1983):

- Administrative messages ("ADMINs") requesting a status report on an order will be responded to automatically when possible; *i.e.*, if the system memory indicates the order has been "stopped", executed or cancelled.
- Cancellation received subsequent to the execution of an order will be returned to the firm automatically by the system as "too late to cancel." Cancellations received before the specialist responds to an order or the system generates a report will automatically "turn off" the system's ability to generate a report and will be forwarded to the Post for further instructions by the specialist.
- When a report has been generated, a "names later" [9] feature will allow the specialist to give up a name(s) from the book or the Crowd on a mark-sense card for input to comparison. The system automatically defaults to the specialist if he does not submit a "give-up."

LMT Enhancements (targeted for 4th quarter 1983). The proposed system upgrades to LMT are expected to benefit member organizations with respect to improved system limit order handling in much the same way as DOT enhancements will for market orders. Insofar as ensuring prompt "turnaround" time for LMT orders, the Exchange proposes to provide system-generated reports for such orders at the limit price of the order if the system indicates that the price of the limit order has been penetrated and the specialist has not reported an execution within fifteen minutes after this occurs. As with DOT, this fifteen minute time period for system-generated reporting may be subject to change from time to time. In addition, if the system indicates *in error* that the price of a limit order was penerated (due to a reporter's error in recording last sale information to the Tape), specialists and member organizations will not be obligated to accept executions resulting from such errors. The Exchange will have the capability of preventing the system from generating a report in such case if it is discovered prior to the fifteen minute period. If a report is generated, the Exchange may cancel the report and reinstate the order.

A further advantage to LMT subscribing member organizations is derived from introducing the use of universal contra party names to report and compare executions through the system. The use of universal contras has proven effective in reducing the frequency of uncompared trades in OARS [10] and in the DOT System. Universal contras facilitate comparison of transactions by isolating one side from comparison problems caused by the other side to the trade.

As noted in the proposed procedures, other improvements to LMT will function in the same way as in the DOT System. Briefly, this petains to system responses to ADMINs and cancellations, the availability of a "names later" feature for system-generated reports and the specialist's acceptance and guarantee of execution prices automatically reported by the system.

(2) *Statutory Basis for the Proposed Rule Change.* The rule changes proposed herein further the Congressional findings in Section 11A(a)(1) of the Act, as amended, in that they will help facilitate economically efficient executions of securities transactions through new data processing and communication techniques. They also will advance the prompt and accurate clearance and settlement of securities transactions which is consistent with Section 17A(a)(1) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that these rule changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In fast, the Exchange's purpose in proposing these rule changes is to provide fact, accurate and cost-efficient executions and reports through its DOT and LMT Systems which compete for small order flow with order execution systems in other market centers. These rule changes thus promote competition between the Exchange and other market centers.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited written comments on these rules changes. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. 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, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 also will 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

[7] Note that a similar procedure exists in the Registered Representative Rapid Response Service ("R4") experiment with respect to R4 reports which the specialist is obligated to accept for his own account. For details refer to filing SR-NYSE-82-14 which also discusses the rules which are affected by this procedure. The same rules would be affected with respect to DOT executions which the specialist must accept in the above instances.

[8] NYSE Rule 15A applies if a member initiates a tradethrough on the Exchange, *i.e.*, purchases stock on the Exchange at a higher price than the offer displayed at that time by another ITS market center (or sells, etc.)

[9] The use of the "names later" feature in the R4 experiment is explained in SR-NYSE-82-14.

[10] *See* SR-NYSE-80-25.

be submitted within 21 days after the date of this publication.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 11A and 17A of the Act and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the NYSE Board has scheduled the start-up of the system for up to 100 stocks on June 30, 1983; and in light of competing projects, if this timetable is not met, the implementation of the DOT enhancement for these stocks as well as potentially for all NYSE stocks will be significantly delayed.

It is *therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-17246 Filed 6-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19893; File No. SR-NYSE-83-18]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Relating to the proposed Rule 345 change eliminating the reference to employment in a nominal capacity; limiting approval of officers to those with authority to legally bind the member corporation; and requiring an annual update of registered representative movement between offices of a member organization.

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 June 13, 1983, the New York Stock Exchange, Inc. 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 proposed rule change eliminates the prohibition against employing a registered representative in a "nominal capacity;" limits the required approval of officers to those with authority to legally bind a member corporation; and requires annual instead of "prompt" updates of registered representative movement between offices of a member organization.

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 and discussed any comments it received on 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 proposed change eliminates the prohibition in Rule 345 against employing a registered representative in a "nominal capacity". This prohibition was originally primarily intended as an anti-rebative provision when fixed commission rates were in effect. Furthermore, the provision is inappropriate since part-time employment of registered representatives is now permitted by the Exchange.

The Exchange presently approves the appointment of all officers of a member corporation. The proposed change limits required approval to corporate officers with authority to legally bind the corporation. This will ease the administrative and reporting workloads of both member organizations and the Exchange without any perceived lack of regulatory control.

The proposed revision relating to member reporting of internal transfers of registered representatives would require reports to be made on an annual instead of a "prompt" basis. The amendment will ease unnecessary paperwork burdens on member organizations by requiring only one consolidated report of all such movements. From a regulatory standpoint the ability of the Exchange to continue to monitor registered representative movement between offices of a member organization will not be hampered.

Statutory Basis for the Proposed Rule Change

The proposed changes are consistent with Section 6(b)(5) of the Act in that while they ease administrative burdens of member organizations, they do not detract from provisions to insure the protection of investors and the public interest.

In addition, the specific provision relating to approval of certain corporate officers is consistent with Section 6(c)(3)(A) of the Act in that it insures the Exchange will examine and verify the qualifications of these natural persons associated with a member organization to be certain that they meet the standards of training, experience and competence as are prescribed by the rules of the Exchange.

B. Self-Regulatory Organization's Statement of Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 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, NW., 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 Branch, 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: June 20, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-17248 Filed 6-24-83; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC)

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on July 14 and 15, 1983, in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 7:00 p.m. on July 14, recess and reconvene at 8:00 a.m. on July 15. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The July 14 session and a portion of the July 15 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. § 552 b (c) (1), (2), and 9 (B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552 b (c) (6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456-7740, prior to 3:00 p.m. on July 13. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: June 15, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83-17165 Filed 6-27-83; 8:45 am]

BILLING CODE 3170-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5462]

Columbia Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Columbia Capital Corporation, 35 Middagh Street, Brooklyn, New York 11201 with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

The officers and directors of the Applicant are as follows:

Mark Scharfman, 201 East 21st Street, New York, New York 10010; President, Treasurer and Director; 100% Stockholder

Sidney Scharfman, 35 West 18th Street, New York, New York 10024; Secretary, Director

Alan Leavitt, 1067 East 19th Street, Brooklyn, New York 11230; Vice President, Director

Sheila Scharfman, 201 East 21st Street, New York, New York 10010; Vice President

Diana Ortado, 2686 Ocean Avenue, Brooklyn, New York 11229; Assistant Vice President and Assistant Secretary.

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of New York.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the New York City area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 21, 1983.

Robert G. Lineberry,

Deputy Associate Adminstrator for Investment.

[FR Doc. 83-17265 Filed 6-24-83; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 20]

Delegation of Authority to the Assistant Administrator for Hearings and Appeals

Pursuant to the authority vested in me by the Small Business Act, 15 U.S.C. 631, *et seq.*, and the Small Business Investment Act, 15 U.S.C. 661, *et seq.*, as respectively amended, the following authority is hereby delegated to the Assistant Administrator for Hearings and Appeals with authority to redelegate as appropriate.

Authority Delegated to the Assistant Administrator for Hearings and Appeals

A. With respect to the cases or matter enumerated under B below: To prescribe forms and precedures by appropriate means to be used and followed in bringing matters before the Office of Hearings and Appeals for determination; to accept pleadings and filings incidental to matters before the Office of Hearings and Appeals for determination; to determine the place where proceedings will be held; to issue notices of hearings; to rule upon issues of jurisdiction and timeliness; to conduct prehearing proceedings; to administer oaths or affirmations; to issue subpoenas relative to any inquiry; to conduct settlement proceedings; to conduct hearings, both oral presentations and those limited to written submissions; to conduct such inquiries as may be required to give meaningful effect to the process of hearing and deciding issues; to rule upon all motions; to issue such orders or determinations as may be required to protect the rights of the parties and to give other meaningful effect to the hearing and decision process; to render decisions; to certify records to higher reviewing authorities; to organize and maintain custody of docket files; to publish periodically decisions or digests of decisions; and to take such other and appropriate actions as are authorized by law or regulation.

B. The authority of the Office of Hearings and Appeals in specific case subject matter areas shall include:

1. Size appeals for initial Agency determinations that a business concern is small or other than small, within the meaning of the Small Business Act and the Small Business Investment Act, and pursuant to the guidelines set forth in 13 CFR Part 121.

2. Appeals from Standard Industrial Classification designations, pursuant to 13 CFR Part 121.

3. Contractor debarment and suspension hearings pursuant to Office of Management and Budget Policy Letter No. 82–1.

4. Proceedings relative to revocation or suspension of Small Business Investment Company licenses; cease and desist orders; and removal or suspension of directors and officers of licensees of Small Business Investment Companies, pursuant to the Small Business Investment Act and 13 CFR Parts 107 and 109.

5. Proceedings to terminate participants from the Small Business Act's 8(a) program and other controversies arising from the Minority Small Business and Capital Ownership Development Assistance Program, pursuant to 15 U.S.C. 637(a) and 13 CFR Part 124.

6. Proceedings relative to alleged violations of the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d), *et seq.*, 13 CFR Part 112, and pursuant to 13 CFR Part 113.

7. Proceedings relative to employees formal stage grievances where appointment of a grievance examiner is requested.

8. Arbitrations arising under any pertinent labor agreement where both parties to the agreement concur that the matter should be heard by the Office.

9. Proceedings relative to the privilege of any applicant or agent to appear before the Agency, pursuant to 15 U.S.C. 634 and 642, *et seq.*, 13 CFR Parts 103 and 104.

10. Proceedings relative to the eligibility of, or preferred or certified status of, any bank or nonbank lender to participate in Agency loan programs, pursuant to 15 U.S.C. 634(b)(6), *et seq.*, 13 CFR Parts 120 and 122.

11. Termination of surety bond program participants.

12. Proceedings relative to the rights, privileges, or obligations of development companies, pursuant to Sections 501, 502 and 503 of the Small Business Investment Act and 15 U.S.C. 687 *et seq.*, 13 CFR Parts 108 and 109.

13. Proceedings to determine allowance of costs and fees, pursuant to the Equal Access to Justice Act, 5 U.S.C. 504, 13 CFR Part 132.

14. Proceedings arising from MAC ratings where the deciding official challenges the Performance Review Board on the basis of non-adherence to regulations or alleges arbitrary and capricious action.

15. Proceedings arising from contract disputes in which a contractor appeals a final decision of the contracting officer. In these cases, the Office will arrange for referral to a Board of Contract Appeals.

16. Proceedings for debarment from appearance before the Agency because of post-employment restrictions, pursuant to 13 CFR Part 105.

17. Appeals arising from denials of Freedom of Information and Privacy Acts requests.

18. Such other hearing, determination, or appeal proceedings as may be referred to the Office by appropriate authority.

Effective Date: June 27, 1983.

Dated: June 21, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-17266 Filed 6-24-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-14]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before July 18 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the

Rules Docket (AGC-204), Room 816, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on June 20, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23605	National Air Transportation Assn	14 CFR 135.219 & 135.221	To permit petitioner's air taxi operator members to dispatch or release an aircraft to an airport even though weather reports or forecasts or any combination thereof contain statements that weather conditions will be or may be "occasionally," "intermittently," "briefly," or have "a chance of" being below authorized minimums at the estimated time of arrival, so long as there is at least one alternate airport for which weather reports or forecasts do not include such language.
23603	University of North Dakota	14 CFR Portions of Part 141, Appendices A, C, D, and F.	To permit the University of North Dakota to base graduation in certain curricula on the students demonstration of proficiency to a specific performance level rather than the required minimum total flight time.
23556	Canadian Pacific Airlines, Ltd	14 CFR 21.181	To extend Exemption 3721 to permit petitioner to obtain a supplemental type certificate covering the operation of three DC-10-10 aircraft in accordance with an FAA-approved MEL for the aircraft, subject to conditions and limitations.
23470	Suburban Airlines, Inc. (SAL)	14 CFR 121.667(a)	To reconsider Denial of Exemption 3731 to permit petitioner's pilots in command to take off and continue the flight without a visual flight rule (VFR) flight plan being filed with the nearest FAA communication station as long as the flight operates in VFR weather.
23597	Action Air Cargo Corp	14 CFR 121.3(e)	To permit petitioner to operate as a flag air carrier and a supplemental air carrier without having its own air carrier operating certificate when using aircraft wet leased from Trans Air Link Corp. (DC-6A certificated under Part 121), or Seagreen Air Transport (DC-7C and C7-880 under Part 129), both of Miami, FL.
23633	NewAir Flight, Inc	14 CFR 121.61(c)(1)	To permit Mr. Larry D. Ross to serve as Director of Maintenance for NewAir Flight, Inc., although he does not meet the experience requirements.
21789	Air Transport Assn. of America (ATA)	14 CFR 61.45	To extend Exemption 3474 which permits applicants to retake a written or flight test without waiting 30 days provided that the Part 121 authorized instructor has given the applicant flight or ground instruction, as appropriate, and finds the applicant competent to pass the test.
21882	China Airlines (CAL)	14 CFR Portions of Parts 21, 61, & 63	To extend Exemption 3360A, to permit petitioner to operate two U.S.-registered Boeing B-747-SP aircraft, using an FAA-approved master minimum equipment list and an FAA-approved continuous airworthiness maintenance program.
23601	Adams Airways	14 CFR 135.159	To permit petitioner to operate a Learjet, Model 24F, Serial 342, without a slip-skid indicator.
NM-4	Canadair Aircraft	14 CFR 25.1305(d)(3)	To permit petitioner to operate the CL600-1A11 and CL600-2A12 aircraft without installation of a powerplant instrument to indicate rotor system unbalance.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23542	Empire Airlines, Inc	14 CFR 121.589(a) & (b)	To permit petitioner to stow briefcases, small overnight bags, and light valet bags in other than prescribed manner during takeoff and landing. *Cancelled 6/8/83.*
21148	Merle Norman Cosmetics, Aviations, Inc	14 CFR 135.89(b)(3)	To allow petitioner's Gulfstream American II (G-1159) aircraft to operate up to and including 41,000 feet mean seal level (MSL) without requiring at least one pilot seated at the controls to wear, secured and sealed, and oxygen mask, above 35,000 feet. *Cancelled 6.3.83.*
23562	Dresser Industries, Inc	14 CFR 61.57(d)	To permit petitioner's pilots in command to carry passengers during the period beginning 1 hour after sunset and ending 1 hour before sunrise, without making at least three night takeoffs and landings within the preceding 90 days. *Denied 6/8/83.*
23491	San Juan Airlines, Inc	14 CFR 135.261	To permit petitioner to conduct medical evacuation flights from the islands to an appropriate medical facility without complying with the flight and duty time requirements. *Denied 6/7/83.*
23407	Experimental Aircraft Association	14 CFR Part 43	To permit petitioner and other qualifying owners of antique and classic aircraft, who have restored the aircraft to an airworthy condition under the supervision of an FAA airframe and powerplant mechanic, to thereafter conduct inspections (including annual inspections) repairs, and alterations to that specific aircraft. *Denied 6/6/83.*
23460	Rocky Mountain Helicopters, Inc	14 CFR 135.261	To permit petitioner to operate its Cessna Conquest in an air ambulance and rescue service without complying with the duty time limitations. *Denied 6/3/83.*
23480	San Juan Airlines	14 CFR 135.244	To permit petitioner to apply operating experience obtained in the Cessna 207 toward experience gained in the Cessna 172 and 182 aircraft. *Denied 6/9/83.*
23334	Spirit Airways, Inc	14 CFR 135.117	To allow the gate attendant/ticket agent of petitioner to perform the passenger preflight briefing before the passengers board the aircraft. *Denied 6/9/83.*
23596	Arthur J. Spence	14 CFR 103.1(b)	To permit petitioner to operate his ultralight vehicle for purposes other than sport or recreation. *Denied 6/13/83.*
23547	Piper Aircraft Corp	14 CFR 45.21(c)(3) & 45.29(b)(1)	To permit petitioner to operate, during testing, two Enforcer PA-48 aircraft marked and painted in accordance with the standard USAF gray/green camouflage scheme with 3-inch numbers. *Partial Grant 5/31/83.*
21773	Hawaiian Air Tour Service	14 CFR 135.158	Amend Exemption 3379 to extend termination date to August 31, 1985. The present exemption allows petitioner to operate its DeHaviland 114-2X aircraft without an operable pitot heat indicating system. *Granted 6/8/83.*
15194	Compania Mexicana de Aviacion, S.A	14 CFR Portions of Part 61 & 63	To extend Exemption 2195, as amended, to permit petitioner, to operate four leased U.S.-registered aircraft using an FAA-approved continuous airworthiness maintenance program and the B-727 master minimum equipment list. *Granted 6/8/83.*
23506	Catalina Seaplanes	14 CFR 135.175	To permit petitioner to operate its aircraft in passenger-carrying operations, conducted in daylight (VFR) conditions, without approved airborne weather radar equipment installed in aircraft. *Granted 6/3/83.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23650	Egyptair	14 CFR 21.181	To permit petitioner to operate a leased, U.S.-registered B-747 aircraft N480GX utilizing an FAA-approved minimum equipment list. *Granted 6/5/83.*
23518	Atlantic Richfield Co	14 CFR 21.181	To permit petitioner to operate two leased U.S.-registered Boeing Vertol 234 helicopters using a FAA-approved minimum equipment list. *Granted 6/7/83.*
23530	Minuteman Aviation, Inc	14 CFR 135.261(b)	To permit petitioner to conduct helicopter emergency medical evacuation service to hospitals in Great Falls and Helena, Montana, and outlying areas without complying with the duty time limitations. *Granted 6/2/83.*
20410	Midwest Truxton Int'l	14 CFR 135.261(b)	To amend and extend Exemption 3034A to permit petitioner to operate a helicopter in hospital emergency service from Borgess Medical Center without complying with the duty-time limitations of that section. The amendment would permit MTI to perform hospital emergency service for other hospital. *Granted 6/2/83.*
23550	Soloy Conversions, Ltd	14 CFR 21.195(b)	To permit petitioner to perform market survey flights with its Cessna 206 aircraft which has been modified with an Allison 250-C20 turbine engine. *Granted 5/31/83.*
22560	Alaska Int'l. Air	14 CFR 121.211(e)(2)	To permit petitioner to operate its five L-382 aircraft without each flight deck station being equipped with a combined safety belt and shoulder harness that meets the applicable requirements of § 25.785. *Granted 6/9/83.*
23492	United States Hand Gliding Assn., Inc	14 CFR 103.1(a) & (b)	To permit the operation of two-place unpowered vehicles of not more than 155 pounds for purposes of sport and recreation or flight instruction. *Granted 6/9/83.*
23583	E. L. & B. R. Cox Oil & Gas Products	14 CFR 91.200	To permit petitioner to operate its aircraft until 9/30/83 without each flight attendant seat and flight deck seat meeting the requirements of § 25.785. *Granted 6/9/83.*
23477	Experimental Aricraft Assn	14 CFR 103.1(a)	To permit two-place powered ultralight vehicles to be used for the purpose of training persons in the operation of ultralight aircraft. *Granted 6/9/83.*
23439	AOPA Air Safety Foundation	14 CFR 103.1(a), (b), & (e)(1)	To permit petitioner to operate powered ultralight vehicles of not more than 330 pounds empty weight with two occupants for the purpose of flight instruction. *Granted 6/9/83.*
23632	United Air Carriers, Inc., d/b/a Overseas National Airways (ONA).	14 CFR 121.371(a) & 121.378	To allow ONA to utilize Scandanavian Airlines System, an FAA-approved foreign repair station for the overhaul of its aircraft, engines, and components. *Granted 6/9/83.*

[FR Doc. 83-17189 Filed 6-24-83; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP82-19; Notice 2]

Dunlop Tire & Rubber Corp.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Dunlop Tire and Rubber Corp. of Buffalo, New York, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on October 4, 1982, and an opportunity afforded for comment (47 FR 43824).

Paragraph S6.5 of Standard No. 119 requires tires to be marked with certain information on each sidewall. Dunlop produced 14,869 tires with an incorrect letter designating the tire load range. The tires were marked "6PR, Load Range C" but were in fact 4 PR, Load Range B. The tires involved were all 31x11.50R15LT, with trade names of Dunlop RV Radial Rover, Remington Wide Brute RV, and Centennial Canyon Climber RV.

Dunlop argued that the noncompliance was inconsequential as the correct maximum load and inflation appears on both sidewalls. The tread labels correctly identify the tires as Load Range B.

No comments were received on the petition.

The agency regards the noncompliance with Standard No. 119 as one with potentially serious safety ramifications. Traditionally, the truck tire market has made tire choices on the basis of ply rating and still does for heavy duty vehicles. Load range is the dominant criterion for light trucks to which these tires pertain. The agency believes that installers read the load range and assume the tire is correct for its application. Load Range C tires generally are rated at about 500 pounds higher than the corresponding size in Load Range B. Thus, a purchaser of one of the mislabelled Dunlop tires using it for Load Range C applications will in all probability overload it, since its capacity is insufficient for vehicles which require Load Range C tires. Failure may occur, not only because of overloading, but also because of overpressuring. The latter would occur if the tire inflation placard indicated a pressure as high as 50 psi rather than the 35 psi maximum for which these tires are rated. The 15 psi error might result in a blowout. If, on the other hand, the operator used the maximum inflation pressure of 35 psi indicated on the sidewall, a severe overload condition might result, causing tire fatigue and failure.

Although Dunlop argued that its paper label would sufficiently inform purchasers of the error, NHTSA believes that this information is often torn off, misplaced, or simply ignored by those who handle the tires. Further, the information would not be available once the tire was in use, especially critical in the event the tires are swapped or repurchased after the original sale.

Accordingly, petitioner has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby denied.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 17, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-17124 Filed 6-24-83; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Firearms; Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of granting of relief from disabilities incurred by conviction.

SUMMARY: The person named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Adams, Harvey Mitchell, Route 1, Box 151, Hurdle Mills, North Carolina, convicted on May 2, 1977, in the United States District Court, Durham, North Carolina.

Adams, Robert C., Jr., 500 North Volland, #62, Kennewick, Washington, convicted on March 30, 1979, in the Superior Court of Spokane County, Washington.

Alpert, Jack Bradford, 3437 Holmes, Kansas City, Missouri, convicted on June 6, 1970, in the Circuit Court of Pettis County, Missouri; and on June 7, 1976, in the United States District Court, Western District of Missouri.

Ambrose, Herman D., Jr., Route 1, Fordsville, Kentucky, convicted on March 6, 1974, in the Circuit Court of Ohio County, Hartford, Kentucky.

Baldwin, Johnny W., Jr., Route 1, Adairville, Kentucky, convicted on February 6, 1979, in the Circuit Court of Logan County, Russellville, Kentucky.

Bell, Veronica Ann, Route 14, Box 366X, Tallahassee, Florida, convicted on February 4, 1980, in the Circuit Court of Leon County, Florida.

Black, Lawrence N., 1224 East Riverside, Decatur, Illinois, convicted on March 10, 1961, in the 6th Circuit Court of Macon County, Illinois.

Bramuchi, David Joseph, 6520 Keswich Cove, Memphis, Tennessee, convicted on July 1, 1964, in the Criminal Court of Shelby County, Memphis, Tennessee.

Branch, Max Edward, Route 2, Box 615, Fitzgerald, Georgia, convicted on October 24, 1980, in the United States District Court, Atlanta, Georgia.

Brewer, Harvey Gene, 13308 Broadmeade, Round Rock, Texas, convicted on June 19, 1974, in the 140th District Court, Lubbock, Texas.

Burris, James Robert, 143 Red Hawk Road, Wilmington, North Carolina, convicted on April 5, 1978, in the United States District Court, Wilmington, North Carolina.

Cermak, Peter John, Route 1, Zimmerman, Minnesota, convicted on April 13, 1972, in the Superior Court, Los Angeles, California.

Clark, Eugene, 418 Linn Grove Avenue, Bern, Indiana, convicted on February 13, 1973, in the Circuit Court of Adams County, Indiana.

Collins, Daniel W., Riviera Trailer Court, #138, Pasco, Washington, convicted on July 22, 1975, in the Circuit Court of Mathuer County, Oregon.

Cook, James E., 2079 Lake Boulevard, Shelton, Washington, convicted on March 1, 1976, in the Superior Court of Kitsap County, Washington.

Cooper, Wayne J., 222 Legion Drive, Marksville, Louisiana, convicted on March 5, 1981, in the 12th Judicial District Court, Marksville, Louisiana.

Dant, Robert C., 3006 Victor Place, Everett, Washington, convicted on November 29, 1971, in the Superior Court of Snohomish County, Washington.

Davis, Clarence Eugene, Route 1, Box 125B, Mt. Hope, West Virginia, convicted on January 21, 1953, in the Circuit Court of Raleigh County, Beckley, West Virginia.

Devaney, Wesley Jay, 1508 Jeffrey Street, Raleigh, North Carolina, convicted on December 16, 1974, in the Superior Court, Raleigh, North Carolina.

Devoe, Floyd Arthur, 11-F Eastgate Homes, Harriet Street, Elmira, New York, convicted on June 9, 1933, in the Chemung County Court, New York.

Dudley, Allen, 6635 Roxburg, Houston, Texas, convicted on September 7, 1979, in Angleton, Texas.

Dunn, William N., Jr., Route 3, Box 90, Ringgold, Georgia, convicted on January 20, 1980, in the United States District Court, Houston, Texas.

Duran, Michael McGrath, 730 Zinnia Avenue, Metairie, Louisiana, convicted on March 3, 1971, in Criminal District Court, New Orleans.

Dykes, Richard J., 119 Birch Oaks, Granbury, Texas, convicted on March 20, 1978, in Criminal Court #1, Forth Worth, Texas.

Eisenhauer, Wayne Alden, 270 Countryside Lane, Orchard Park, New York, convicted on January 27, 1976, in the Orleans County Court, New York.

Fernandez, Frank L., 2146 Companero Avenue, Orlando, Florida, convicted on September 17, 1980, in the Circuit Court of Orange County, Florida.

Fields, Joel W., 4101 East 14th Street, Amarillo, Texas, convicted on March 26, 1973, in the 181st District Court of Randall County, Texas.

Forsgard, Samuel Alexander, 1909 McDonald Road, Tyler, Texas, convicted on February 3, 1975, in the 7th District Court of Smith County, Texas.

Goodman, Joe Glenn, Route #3, Albermarle, North Carolina convicted on July 8, 1969, in the Superior Court of Stanley County, North Carolina.

Hanson, Brian Lee, 2113 140 Lane Northwest, Anoka, Minnesota, convicted on July 3, 1979, in the 10th District Court, Anoka, Minnesota.

Hays, William Joseph, 4422 Carwithan Road, Philadelphia, Pennsylvania, convicted on November 11, 1963, in the Court of Quarter Sessions, Philadelphia, Pennsylvania.

Holine, James R., Route 2, Box 300, Stanch Field, Minnesota, convicted on April 7, 1975, in the 10th Judicial District Court of Isanti County, Minnesota, and also on November 12, 1975, in the 10th Judicial District Court of Isanti County, Minnesota.

Howell, Sally Anne, 372 North Hamilton, Powell, Wyoming, convicted on August 11, 1981, in the District Court of Park County, Wyoming.

Huddleston, Phylip E., 1713 Parkview Drive, Hopkinville, Kentucky, convicted on July 20, 1979, in the Circuit Court of Christian County, Kentucky.

*Hughes, Michael L.,*6048 North Seneca Street, Wichita, Kansas, convicted on October 18, 1976, in the 18th Judicial District Court of Sedgwick County, Kansas.

Jacobs, Joseph J., Route 11, Box 11400, Lot 240, Popular Heights, Mobile Homes, Kennewick, Washington, convicted on February 15, 1977, in the Superior Court of Franklin County, Washington.

Johnson, Curtis Delaney, 225 Larry Avenue, Apartment 2, Mansfield, Ohio, convicted on January 20, 1959, in the Circuit Court, Welch, West Virginia.

Jones, William Kevin, Route 1, Box 33, Bernice, Louisiana, convicted on January 23, 1976, in the Second Judicial District Court of Claiborne Parish, Louisiana.

Kachel, Timothy P., 901 3rd Avenue, Southeast, Jamestown, North Dakota, convicted on February 2, 1979, in the 4th District Court of Stutsman County, North Dakota.

Karres, Vernon H., 1923 North LaSalle Street, Indianapolis, Indiana, convicted on July 8, 1960, in the Indiana Criminal Court of Marion County, Indiana.

King, Clyde Duane, Route 9, Box 423, Reidsville, North Carolina, convicted on June 10, 1980, in the Superior Court of Rockingham County, North Carolina.

Kinlow, Lyman L., Jr., Route 2, Box 470, Castle Hayne, North Carolina, convicted on April 5, 1978, in the United States District Court, Wilmington, North Carolina.

Knauss, George J., 1215 West Lakeside Drive, Moses Lake, Washington, convicted on

July 7, 1984, in the United States District Court, Eastern District of Washington.

Lanting, David Rodney, 39 Jordan Southwest, Grand Rapids, Michigan, convicted on October 29, 1980, in the Circuit Court of Kent County, Michigan.

Laws, Richard Dewey, Route 2, Box VH–9, North Wilksboro, North Carolina, convicted on February 24, 1933, in the United States District Court, Wilksboro, North Carolina; and on March 14, 1942, Middle District; and also on October 20, 1975, Middle District.

Lawson, Lillie Carol, Route 3, Box 564, Randleman, North Carolina, convicted on October 8, 1980, in the Superior Court of Randolph County, North Carolina.

Ledoux, Eddie Ann, Route 1, Box 344, Bell City, Louisiana, convicted on March 4, 1976, in the 14th Judicial District Court of Calcasieu Parish, Louisiana.

Lipscomb, Dale Grant, 1341 Elm Street, Youngstown, Ohio, convicted on July 18, 1979, in the Common Pleas Court, Warren, Ohio.

Lovett, Henry Anthony, 801 Hulmeville Road, Langhorne, Pennsylvania, convicted on June 23, 1963, in the Burlington County Court, New Jersey; and on January 9, 1962, in the Bucks County Court, Pennsylvania; and also on October 10, 1962, in the Bucks County Court, Pennsylvania.

Luther, Edward Cecil, Route 5, Box 9, Asheboro, North Carolina, convicted on February 2, 1981, in the Superior Court, Asheboro, North Carolina.

Malone, Karl, 2242 Filer Avenue, East, Twin Falls, Idaho, convicted on, November 4, 1977, in the United States District Court, Idaho.

Marberry, Steven A., 1412 Lexington Street #12, Cape Girardeau, Missouri, convicted on November 19, 1973, in the Circuit Court, Cape Girardeau, Missouri.

Matthews, Arlie Norris, 406 Hillcrest Avenue, Louisville, Kentucky, convicted on July 13, 1973, in the Morgan County Court, Decatur, Alabama.

Mauro, Augustine, 9408 77th Street, Ozone Park, New York, convicted on July 7, 1961, in the United States District Court, Eastern District of New York.

McLane, Richard, 10315 Northeast 25th Street, Vancouver, Washington, convicted on April 3, 1970, in the Superior Court of Inya County, California.

Miller, William Dale, 220 C Street, Southwest, Ardmore, Oklahoma, convicted on March 12, 1964, in the District Court of Ottawa County, Oklahoma.

Mixson, William Joseph, 365 Peran Avenue, Fairhope, Alabama, convicted on August 29, 1967, in the Circuit Court of Baldwin County, Alabama.

Mongeau, Martin, 1905 South 6th Avenue, Yakima, Washington, convicted on July 9, 1970, in the Superior Court of Deuel County, Nebraska.

Monson, Kevin E., 2907 North Hill, Amarillo, Texas, convicted on October 27, 1978, in the 108th District Court of Potter County, Texas.

Myers, Robert Christopher, 111 Clark Street, Marietta, Ohio, convicted on July 23, 1980, in the Common Pleas Court, Marietta, Ohio.

Neidig, Dennis D., 107 East Sunset Drive, Bourbon, Indian, convicted on February 4, 1974, in the Superior Court of Marshall County, Indiana.

Otto, Michael Paul, 915 North Lake Road, Oconomowoc, Wisconsin, convicted on August 19, 1974, in the Winnebago District Court, Forrest City, Iowa; and on February 3, 1976, in the Winnebago District Court, Forrest City, Iowa.

Pasquale, Steo, Jr., 2739 Dudley Street, Philadelphia, Pennsylvania, convicted on December 18, 1975, in the United States District Court, Philadelphia, Pennsylvania.

Payne, Ernest Bedford, 12902 Joliet, Houston, Texas, convicted on March 15, 1980, in the 174th District Court, Houston, Texas.

Perice, Jack, 208 North First Street, Shenandoah, Virginia, convicted on October 22, 1979, in the Circuit Court of Rockingham County, Harrisonburg, Virginia.

Poling, Johnny Lee, Route 1, Box 208, Wallace, West Virginia, convicted on October 28, 1973, in the Circuit Court, Winchester, Virginia.

Prevette, Howard, Route 1, Box 349, Roaring River, North Carolina, convicted on May 22, 1958, in the United States District Court, Eastern District, North Carolina.

Rahn, Jerome D., 7039 Pacific Avenue, Apartment A, Tacoma, Washington, convicted on January 11, 1980, in the Superior Court of Pierce County, Washington.

Robinson, Buron J., 207 Cherokee Drive, Tallapoosa, Georgia, convicted on August 17, 1977, in the United States District Court, Atlanta, Georgia.

Seymore, Melvin Clarence, Route 10, Box 254, Cullman, Alabama, convicted on December 14, 1977, in the Federal District Court, Northern Alabama.

Shaw, Robert Lee, 1824 North Tuckahoe Street, Arlington, Virginia, convicted on March 15, 1974, in the Fairfax County Court, Virginia.

Shepherd, Thurmon, Route 4, Box 211, Jacksonville, North Carolina, convicted on June 8, 1977, in the United States District Court, New Bern, North Carolina.

Sheridan, Donald E., 138 Wood, East Tawas, Michigan, convicted on August 21, 1978, in the Circuit Court of Iosco County, Tawas City, Michigan.

Smith, Aron Lynn, 1310 South Pine Street, Grapevine, Texas, convicted on January 29, 1979, in the District Court of Tarrant County, Texas.

Smith, Kenneth Ray, Route 7, Box 46–AA, Lot #41, Denham Springs, Louisiana, convicted on June 29, 1978, in the 19th District Court, Baton Rouge, Louisiana.

Stoddard, James R., Box 233, Hillman, Michigan, convicted on February 27, 1980, in the United States District Court, Bay City, Michigan.

Stoneking, Danny E., 2730 Fyke Road, #203, Farmers Branch, Texas, convicted on July 13, 1978, in the Superior Court of Onslow County, North Carolina.

Taylor, Michael Arthur, Route 5, Box 405, Slidell, Louisiana, convicted on March 8, 1979, in the 22nd Judicial District Court of St. Tammy Parish, Louisiana.

Thrift, Harry Monroe, P.O. Box 393, Waycross, Georgia, convicted on January 30, 1968, in the Superior Court of Ware County, Waycross, Georgia.

Trunnell, Larry Ray, 2259 Ponder Place, Owensboro, Kentucky, convicted on April 4, 1980, in the United States District Court, Western Judicial Court of Kentucky.

Turner, Robert, 1822 Bard Drive, Jacksonville, Florida, convicted on August 11, 1977, in the United States District Court, Middle District of Florida.

Underwood, Norris, 1419 Monticello Road, Irondale, Alabama, convicted on November 24, 1980, in the Federal District Court, Northern Alabama.

Vann, Arthur, III, 2905 Shaftsbury Street, Durham, North Carolina, convicted on February 8, 1979, in the Superior Court, Durham, North Carolina; and on September 24, 1979, in the Superior Court, Durham, North Carolina.

Vest, Kenneth, Route 2, Box 271–B, Lynchburg, Virginia, convicted on October 20, 1976, in the Lynchburg Circuit Court, Virginia.

Westmoreland, Wendell, 210½ East Main Street, Bowling Green, Kentucky, convicted on January 2, 1945, in the District Court of Barren County, Glasgow, Kentucky.

Wilson, Robert Jeffery, 4620 River Vista Drive, Cedarburg, Wisconsin, convicted on November 29, 1963, in the Milwaukee County Circuit Court, Milwaukee, Wisconsin.

Wood, Dennis Timothy, 1506 Avenue H, Cozad, Nebraska, convicted on May 13, 1977, in the District Court of Dawson County, Nebraska.

Yoder, Steven A., 1616 156th Avenue, Northeast, #341, Bellevue, Washington, convicted on June 23, 1978, in the Superior Court of Buffalo County, Nebraska.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: June 21, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-17236 Filed 6-24-83; 8:45 am]

BILLING CODE 4810-31-M

Office of Revenue Sharing

Data Improvement Program for Entitlement Period Fifteen

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Notice.

SUMMARY: This notice provides the data definitions and effective dates for the

Data Improvement Program for the projected Entitlement Period 15 (October 1, 1983–September 30, 1984) of the Revenue Sharing Program, and provides the proper challenge procedures.

DATES: Data challenges for Entitlement Period 15 should be submitted to the Office of Revenue Sharing by August 4, 1983. Demands for allocation adjustments for Entitlement Period 15 must be made by September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226, (202) 634–5166.

SUPPLEMENTARY INFORMATION: On about June 28, 1983, as part of the Office of Revenue Sharing's contingency planning to ensure that the most current and accurate data are available in the event of the renewal of the Program, we will mail the probable data to be used incalculating the Revenue Sharing allocations for all State areas and eligible local governments for entitlement Period 15. These data have been compiled by the Bureau of the Census, Bureau of Economic Analysis, and the Internal Revenue Service. Governments' careful review of their data factors will help to ensure that all funds are allocated correctly and equitably. Any of these data may be corrected as a result of this review or other data improvement procedures. Both the data and the data definitions used in the Program may be affected by renewal legislation.

The Congress is currently considering various proposals for the extension of Revenue Sharing beyond September 30, 1983. These data are being sent to each State government and eligible local government in anticipation of the reauthorization of the Program using the present data series. Since to date the Program has not been renewed for Entitlement Period 15, no estimated allocation amounts are being provided to governments. This Office will advise all recipient governments of the status of their future Revenue Sharing entitlements as soon as possible after completion of Congressional action of the Program's reauthorization.

A State or local government (or the Secretary of the Treasury) has until September 30, 1985, to make a demand for an allocation adjustment under 31 U.S.C 6702(c). A demand for adjustment by a State or eligible local government must be in writing with documentation justifying the proposed data correction.

The State area data will be mailed to the Governor of each State and to the Mayor of Washington, D.C. The City of Washington is treated as the only municipality in the State area of the District of Columbia. States will receive a letter showing their State's probable data to be used to calculate the amount for distribution among the State areas. If a State government believes that there are errors in the data, considering these definitions and effective dates, the State government should report corrected figures with supporting documentation for any apparent discrepancy to the Office of Revenue Sharing by August 4, 1983. Upon receipt of a State government's correction proposal, the Office of Revenue Sharing will work with the appropriate Federal agency to substantiate or correct the data. The Office of Revenue Sharing then will advise the State government of the results of that review. Any resulting data changes for State areas will be used in computing the initial allocations of all eligible governments for Entitlement Period 15 currently planned for late August 1983. However, the date of the renewal of the Program will affect the actual date that the initial Period 15 allocations are determined.

The probable data for each unit of local government will be mailed to the official of record for the government. Each recipient local government will be sent either a Form 3233 or a Form 90–18.3. The Form 90–18.3 will be sent only to those governments in areas declared major disaster areas since April 1, 1974 under the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C chapter 58) whose data were possibly adversely affected by a major disaster. In order to be eligible for the stabilization benefit of the Disaster Relief Act (which permits them to use their pre-disaster data figures rather than their post-disaster figures), the local governments which receive a Form 90–18.3 are required to verify that one or more of their data elements were adversely affected by the disaster. Form 3233 will be sent to all other recipient governments.

If a government believes that an error exists in the data, considering these definitions and effective dates, it should return the Form 3233 or Form 90–18.3 to the Office of Revenue Sharing by August 4, 1983, with evidence justifying each proposed data correction. Governments which do not wish to question their data or to certify a disaster should not return the form. When the Office of Revenue Sharing receives a correction proposal from a recipient government, it will work with the appropriate Federal Agency to substantiate or correct the questioned data, and will advise the government of the results of that review. Any resulting changes in the data for local governments will be used in computing the initial allocations for Entitlement Period 15, if they have been processed by the time of that allocation. Otherwise, these changes will be incorporated in the final allocations for Entitlement Period 15.

The data definitions for State areas used in the interstate allocation process and for local governments used in the intrastate allocation process for Entitlement Period 15 are as follows:

State Area Data Definitions

I. Population

The population of a State for revenue sharing purposes for Entitlement Period 15 is the total resident population on July 1, 1982 as determined by the Bureau of the Census. The July 1, 1982 State populations are provisional estimates, which are published by the Bureau of the Census in *Current Population Reports*, Series P–25. These 1982 provisional State population estimates are based on the 1980 Census, and employ such population indicators as vital statistics to measure natural increase, and school enrollment and income tax returns to measure migration. For a complete description of the methodology used, please consult the full report in the Bureau of the Census' Series P–25. The 1982 State populations used for revenue sharing may not agree exactly with the figures in early Census publications, since corrections may have been made subsequent to printing. The 1982 State populations for revenue sharing may not agree exactly with the figures in early Census publications, since corrections may have been made subsequent to printing. The 1982 State populations for revenue sharing purposes will not be changed when revised data based in part on the administrative records methodology become available after the beginning of the entitlement period.

K83II. Urbanized Population

The urbanized population of a State for Entitlement Period 15 is the 1980 urbanized population of a State as determined by the Bureau of the Census.

A State's 1980 urbanized population is that State's 1980 Census population living in "Urbanized Areas." For a complete definition of Urbanized Areas, please consult the Bureau of the Census publication for each State entitled *1980 Census of Population: Vol 1, Characteristics of the Population, PC80–1–A, Number of Inhabitants.*

III. Income

The per capita income (PCI) of a State for Entitlement Period 15 is the 1979 per capita income of the State from the 1980 Census. The per capita income is the

estimated mean or average amount of total money income received during calendar year 1979 by all persons residing in the State on April 1, 1980, but will include changes in the 1979 PCI due to qualifying incorporations, mergers, consolidations, and annexations occurring between January 1, 1980 and December 31, 1981.

Total money income is the sum of:

- Wage and salary income.
- Net nonfarm income.
- Net farm income.
- Interest, dividends, net rental income.
- Social Security and railroad retirement income.
- Supplemental Security Income (SSI), Aid For Dependent Children (AFDC), or other public assistance income.
- All other income such as unemployment compensation, veteran's payments, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: money received from the sale of personal property; capital gains, the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

The definition of total money income is being published in the Bureau of the Census report entitled *1980 Census of Population: Characteristics of Population, PHC 80–3, Summary Characteristics for Governmental Units.* The estimates being used for revenue sharing purposes may not agree with the figures in the reports, since corrections have been made to the estimates subsequent to their publication.

IV. State Individual Income Tax

The State individual income tax data of a State for Entitlement Period 15 is the total calendar year 1982 collections of the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954. These data also include collections of taxes on special types of income (e.g. interest, dividends, income from intangibles, etc.).

Actual calendar year 1982 State individual income tax collections data were obtained from the Bureau of the Census' publication entitled *Quarterly Summary of State and Local Tax Revenue, October–December 1982.* The calendar year 1982 State individual income tax collections data used for revenue sharing may not agree exactly with the published figures, since corrections to these data may have been made subsquent to publication.

V. Federal Individual Income Tax Liabilities

The Federal individaul income tax liability of a State for revenue sharing purposes is the total annual Federal individual income taxes after credits attributed to the residents of the State by the Internal Revenue Service. Income tax after credits is determined by subtracting statutory credits from the total of income tax before credits. It does not include self-employment tax or tax from recomputing prior year investment credit, nor does it take into account refundable credits.

Income tax before credits is the tax liability computed on taxable income base on:

1. The regular combined normal tax,
2. Alternative tax, or
3. Tax computed using the income averaging provisions.

Examples of credits which are applied against income taxes are:

1. Retirement income credit,
2. Investment credit,
3. Foreign Tax crediit, and
4. Other tax credits.

The most recently available Federal individual income tax liabilities are the 1981 IRS estimates of Federal individual income tax liabilities of States. These estimated tax amounts for calendar year 1981 are the preliminary 1981 estimates from the Internal Revenue Service's *Statistics of Income.*

VI. State and Local Taxes

The State and local tax data of a State are the compulsory contributions exacted by the State government or by any unit of local government or other political subdivision of the State for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purposes.

State and local tax data used for revenue sharing purposes are the fiscal year 1981–82 State and local taxes as reported by the Bureau of the Census in Table 5 of *Governmental Finances 1981–82* (GF 82, No. 5). Fiscal year 1981–82 is a government's 12-month accounting period that ended between July 1, 1981 and June 30, 1982, except for three State governments and the school districts in two States. The State governments of Alabama and Michigan had fiscal years ended September 30, 1982, and the Texas State government had a fiscal year ended Augustu 31, 1982. Also, the school districts in Alabama had fiscal years ended September 30, 1982, and those in Texas ended August 31, 1982. All of these governments are treated as though they are part of the group with fiscal years ended by June 30, 1982.

Tax revenue comprises amounts collected from all taxes which are imposed by a government and collected by that government, or which are collected for it by another government acting as its agent. This includes interests and penalties, but does not include amounts refunded or taxes paid under protest and held in suspense accounts subject to possible refund. These latter amounts are not regarded as revenue, except as awarded to the government concerned. For purposes of this definition, local governments and other political subdivisions include counties (parishes in Louisiana and boroughs in Alaska), municipalities, townships, school districts, and special districts. A unit of government also includes, in addition to the central authority of the unit, any semi-autonomous boards, commissions, or other agencies dependent on it that do not in themselves meet requirements as to fiscal and administrative independents, even though as to accounting aspects these agencies may operate outside the central accounting and administrative pattern of the unit.

The State government information contained in State and local taxes is based on the annual Bureau of the Census survey of State finances. State finance statistics are compiled by representatives of the Bureau of the Census from official records and reports of the various States. The local government portion of the State and local tax data are estimates based on information received from all general purpose governments and from a sample of school districts and special districts. The sample consisted of districts whose relative importance in their State based on expenditure or debt was above a specified size, and a random sample of remaining units.

The fiscal year 1981–82 State and local taxes data may not agree exactly with the figures in *Governmental Finances 1981–82*, because corrections may have been made to these data subsequent to their publication.

VIII. General Tax Effort Factor

The general tax effort factor of a State for Entitlement Period 15 is the amount

of fiscal year 1981–82 State and local taxes of the State divided by the aggregate personal income of the State for 1981. State and local taxes for fiscal year 1981–82 are as defined above, and as reported by the Bureau of the Census in Table 5 *Governmental Finances 1981–82* (GF 82, No. 5).

Aggregate personal income of a State in calendar year 1981 is the income of individuals as estimated by the Bureau of Economic Analysis of the Department of Commerce for national income accounts purposes, and as reported in "Personal Income By States and Regions for Selected Years," Table 1, *Survey of Current Business*, July 1982, Volume 62, Number 7.

Aggregate personal income represents the total current income received by persons residing in the State from all sources, including transfers from government and business but excluding transfers among "persons." Not only individuals (including owners of unincorporated enterprises), but also non-profit institutions, private trust funds, and private pension, health and welfare funds are classified as "persons." Personal income is measured on a before-tax basis, as the sum of wages and salary disbursements, other labor income, proprietors' and rental income, interest and dividends, and transfer payments, minus personal contributions for social insurance, etc.

Local Governments Data Definitions

I. Population

The population of a unit of local government for revenue sharing purposes for Entitlement Period 15 is the resident population on April 1, 1980 (Census Day) as determined by the Bureau of the Census in the 1980 Census of Population and Housing.

The 1980 Census was conducted primarily through self-enumeration. Each person enumerated in the 1980 Census was counted as an inhabitant of his or her usual place of residence. This means the place where the person lives and sleeps most of the time, not necessarily the person's legal residence or voting residence. Persons without a usual place of residence were counted where they happened to be staying.

For a complete definition of the population data and what constitutes a person's usual place of residence, see the Bureau of the Census' publication entitled *1980 Census of Population: Vol 1, Characteristics of the Population, PC80–1–A, Number of Inhabitants.*

The 1980 population data used for Entitlement Period 15 reflect all population corrections made to the date after the initial Bureau of the Census publications, as well as changes due to qualifying incorporations, disincorporations, mergers, consolidations, and annexations occurring between January 1, 1980 and December 31, 1981. Also, as required by Executive Order 12256 dated December 15, 1980, the 1980 Census counts have been adjusted for those local governments which the Bureau of the Census estimated received at least fifty legal immigrants from Cuba or Haiti who arrived between April 1, 1980 and September 30, 1980.

Population of Indian Tribes and Alaskan Native Villages

The population for an eligible Indian tribe or Alaskan native village is the resident Indian population as of April 1, 1980 as determined by the Bureau of the Census.

For Indian tribes, the resident population is the number of American Indians living on the reservation, plus any American Indians living in adjacent tribally-owned trust lands of that tribe. For the 1980 Census, the Bureau of Indian Affairs (BIA) delineated the boundaries of American Indian reservations based on boundaries established by treaty, statute, and executive or court order. Also, the BIA identified adjacent tribal trust lands located outside the reservation boundaries. The adjacent tribal trust lands may not conform exactly to their actual boundaries, since the boundaries used extend to the nearest physical or natural feature bordering the trust lands. Resident non-Indian members of families with an American Indian householder or spouse are also included in tribal population data. The population of the Osage Tribal Council of Oklahoma will be determined on this basis, since it has its own current reservation.

For the other Oklahoma tribes which are located within the historic areas (excluding urbanized areas), the resident Indian population for revenue sharing purposes is the Indian persons identifying with an eligible Indian tribe in the 1980 Census who live within the boundaries of the historic areas in a county which contained a portion of that eligible tribe's reservation at the time of allotment. In cases where two or more tribes had reservation land within a county, the whole historic areas within that county will be treated jointly as the land of those tribes. Parts of the historic areas located within incorporated cities or towns are excluded from the land of the tribes. Resident non-Indian members of families with an Indian householder or spouse identifying with a tribe will be included in that tribe's population data. Minor changes in the population data due to recent improvements in the methods of deriving the population data for the Indian tribes on the Oklahoma Historic Areas will be included in the data for Entitlement Period 15.

For Alaskan native villages, the 1980 resident population is the number of American Indians, Eskimos, and Aleuts living in the village on the April 1, 1980 Census date. Resident non-Alaskan native members of families with an Alaskan native householder or spouse are also included in the population data.

For the 1980 Census, the concept of race used by the Bureau of the Census reflects self-enumeration by respondents according to the race with which they identify themselves. Additionally, persons who did not report themselves in one of the specific race categories, but reported the name of an Indian tribe, were classified as American Indian.

II. Per Capita Income

The per capita income (PCI) estimate of a unit of local government for Entitlement Period 15 is the 1979 PCI estimate from the 1980 Census.

The per capita income is the estimated mean or average amount of total money income received during calendar year 1979 by all persons residing in the governmental unit on April 1, 1980, but will include changes in the 1979 PCI due to qualifying incorporations, disincorporations, mergers and consolidations, and annexations occurring between January 1, 1980 and December 31, 1981.

Total money income is the sum of:

- Wage and salary income.
- Net nonfarm income.
- Net farm income.
- Interest, dividends, net rental income.
- Social Security and railroad retirement income.
- Supplemental Security Income (SSI), Aid For Dependent Children (AFDC), or other public assistance income.
- All other income such as unemployment compensation, veteran's payments, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: money received from the sale of personal property; capital gains; the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the

same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

Due to the high degree of sampling variability associated with the PCI estimates for small geographic units, the Bureau of the Census after consulation with the Office of Revenue Sharing has replaced the PCI estimates for governments (or parts of governments for multi-county places) that were based on a sample population of less than 100 persons with the 1979 PCIestimates for the county. Similar income adjustments were made for small places as a result of the 1970 Census. Since this procedue was used where the sample population was below 100 persons, it is possible for a government with a 1980 Census total population count of 100 or more to have their PCI changed to the county PCI and for a government with a total population of less than 100 persons to have no change.

The definition of total money income is being published in the Bureau of the Census report entitled *1980 Census of Population: Characteristics of Population, PHC 80–3, Summary Characteristics for Governmental Units.* The estimates being used for revenue sharing purposes may not agree with the figues in the reports, since corrections have been made to the estimates subsequent to their publication.

III. Adjusted Taxes

The adjusted taxes for a unit of local government for Entitlement Period 15 are the total taxes of the unit of government in fiscal year 1982 (that government's 12-month accounting period that ended between July 1, 1981 and June 30, 1982) excluding taxes for schools and other educational purposes. The adjusted taxes data are derived from the General Revenue Sharing Survey and Survey of Local Government Finances conducted by the Bureau of the Census for fiscal year 1982.

A government's total fiscal year 1982 taxes are those which were exacted by the government and which were collected by or for that government during fiscal year 1982. Total taxes as defined by the Bureau of the Census for general statistical purposes include a government's:

1. Property taxes—county, municipal or township levied on the value of real or personal property.

2. Sales taxes—county, municipal or township taxes, either general or selective, on goods and services measured as a percent of sales or receipts, or as an amount per unit sold.

Sales taxes are of two types:

a. General sales or gross receipts taxes.

b. Selective sales or gross receipts taxes.

Examples of selective sales taxes are:

- Gasoline taxes.
- Liquor taxes.
- Cigarette and tobacco taxes.
- Public utilities excise taxes.
- Amusement taxes.
- Hotel and motel room occupancy and meals taxes.

3. Licenses, permits and other taxes—county, municipal or township taxes not included in items 1 and 2 above.

Examples of license taxes are:

- Alocholic beverage licenses.
- Business privilege licenses.
- Motor vehicle and operators licenses.
- Hunting and fishing licenses.
- Marriage licenses.
- Inspection fees charged in connection with the granting or renewal of a license.

Examples of permits:

- Building permits.
- Permits for a business or nonbusiness privilege.

Examples of other taxes are:

- Income payroll or earning taxes.
- Mortgage transfer and recordation taxes.
- Severance taxes.
- Inheritance and gift taxes.

Taxes do not include receipts from service charges, special assessments not based on value, interest earnings or fines and forfeits.

All locally imposed taxes are credited to the local government, even if there is a mandatory distribution of funds required in the enabling legislation. This holds true even if the State collects the tax as administrative agent and makes distribution directly to all participating governments. State-imposed taxes that are State-collected and retained are credited as State taxes.

An example of the handling of various State-collected taxes would be a five percent sales tax of which four percent was imposed by the State government and one percent was imposed by local governments. In such a case, the amount of revenue realized by the four percent (State-imposed) portion would be credited to the State government, and the revenue from the one percent (locally-imposed) portion would be credited as local taxes. This situation should be distinguished from a wholly State-imposed tax, where part of the tax revenue is shared with local governments. An example of a shared State tax would be a five percent sales tax wholly imposed by the State government, but which provides a 20-percent share to units of local government. The local government share of this State-imposed tax would be classified as an intergovernmental transfer and not as local taxes. Thus, in determining local taxes the point of reference is the government which imposed the tax rather than the government which expended the resulting tax revenue. Besides the "Memphis Rule" provisions described in the next paragraph, the only other exception to the foregoing description is that locally collected and retained shares of State-imposed taxes (including any collection fees retained) are classified as tax revenue of the government which collects and retains the proceeds.

Certain sales taxes imposed by counties which meet the requirements of Section 6709(a)(3) of Title 31 of the United States Code may be considered to be taxes of the units of local government within the county rather than the county government. The "Memphis Rule," as this section is called, provides for situations whereby a county government imposes a sales tax within the geographic area of local governments within the county, and then shares part or all of the applicable tax revenue with those local governments. These taxes must be transferred by the county government without specifying the purposes for which the local governments may spend the revenues. In such cases, the governor of the State must certify to the Secretary of the Treasury that the requirements of the "Memphis Rule" are met. This certification must be made by the governor before the beginning of the entitlement period when the "Memphis Rule" is to take effect. The taxes which are transferred by the county to other units of local government are then considered for revenue sharing purposes to be taxes of the other local governments and not the taxes of the county government.

Amounts in lieu of taxes received by a government from a utility it operates are treated as internal transfers and are excluded from taxes. Amounts in lieu of taxes received from utilities operated by other governments are reported as intergovernmental transfers.

The amount of total taxes of a local government is adjusted for revenue sharing purposes to exclude taxes for educational purposes. Taxes for education include those allocated for school operation or facilities, support of other public or private schools, retirement of school debt principal, interest payments on school debt, payments to a teachers' retirement system, etc.

For some governments, tax revenues for educational purposes are not

separately identifiable, since education and at least one other expenditure category is financed from a general-type fund or funds containing non-tax revenues. In these instances, an education tax amount must be derived. The governments affected are some places in Alabama, Alaska, Maine, Maryland North Carolina, New Jersey, New York (including New York City), Tennessee, and generally in Connecticut and Virginia. Education taxes are calculated by multiplying the ratio of the available taxes to total available revenue amounts by the education expenditures excluding dedicated amounts. Available taxes are defined as local tax revenues not restricted to any particular expenditure category. Total available revenue amounts are the sum of unrestricted revenues, and cash and investment assets spent during the year. Dedicated amounts are monies that must be spent on one or more specified expenditure categories

IV. Intergovernmental Transfers of Revenue

Intergovernmental transfers for Entitlement Period 15 are amounts received by a unit of government from other governments in fiscal year 1982 (the government's 12-month accounting period that ended between July 1, 1981 and June 30, 1982) for use either for specific functions or for general financial support. This amount is derived from the General Revenue Sharing Survey and Survey of Local Goverment Finances conducted by the Bureau of the Census for fiscal year 1982. The figure includes grants, shared taxes, contingent loans and reimbursements for tuition costs, hospital care, construction costs, etc. Intergovernmental revenue does not include amounts received from the sale of property, commodities, or utility services to other governments, or Federal general revenue sharing entitlement funds.

A limited number of reprints of these data definitions are available upon request from the Office of Revenue Sharing.

(This notice is issued under the authority of Title 31 of the United States Code (31 U.S.C. 6701 et seq.) and Treasury Department Order No. 224, January 26, 1973 (33 FR 3342) as amended by Treasury Department Order No. 242, Revision No. 1, May 17, 1977)

Dated: June 17, 1983.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 83-17251 Filed 6-24-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 124
Monday, June 27, 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

	Items
Federal Energy Regulatory Commission	1
Federal Election Commission	2
Federal Mine Safety and Health Review Commission	3
National Commission on Student Financial Assistance	4
Nuclear Regulatory Commission	5
Postal Service	6
Securities and Exchange Commission	7
Synthetic Fuels Corporation	8

1

FEDERAL ENERGY REGULATORY COMMISSION

Meeting

June 22, 1983.

TIME AND DATE: 10 a.m., June 29, 1983.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—773rd Meeting, June 29, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6643-001, Lee R. and A. Leon Thayn
CAP-2. Project No. 6794-000, Stony Creek Hydro Co.
CAP-3. Project No. 7096-001, Douglas Pegar, d.b.a. Douglas Water Power Company
CAP-4. Project No. 7235-001, Bluestone Energy Design, Inc.
CAP-5. Project No. 6657-001, Mountain West Hydro, Inc.
CAP-6. Project No. 2966-003, James C. Katsekas and Zoes J. Dimos
CAP-7. Project No. 4356-001, Long Lake Energy Corp.; Project No. 5236-000, Essex County Industrial Development Agency; Project No. 5752-000, New York State Department of Environmental Conservation; Project No. 5760-000, International Paper Co.; Project No. 5762-000, International Paper Co.
CAP-8. Project No. 2780-005, Solano Irrigation District
CAP-9. Project No. 6133-001, Michael Earl Springer and James Baynard Boulden; Project No. 6909-002, Mineop Corp.
CAP-10 Omitted
CAP-11. Project No. 4306-001, City of Hibbing, Minnesota; Project No. 3650-000, Mitex, Inc. (formerly Mitchell Energy Co.); Project No 4250-000, City of Shakopee, Minnesota; Project No. 4277-000, Energenics Systems, Inc.; Project No. 4323-000, Northeastern Minnesota Municipal Power, Inc.; Project No.4670-000, City of Winone, Minnesota
CAP-12. Project No. 5-003, Montana Power Co.
CAP-13. Omitted
CAP-14. Omitted
CAP-15. Project Nos. 4636-000 and 001, Hydro Development Group, Inc.; Project Nos. 4908-000 and 001, Mary Jane Ruderman; Project Nos. 5800-000, 6694-000 and 6695-000, Crown Zellerbach Corp.; Project No. 5923-000, Long Lake Energy Corp.; Project No. 6368-000, Climax Manufacturing Co.
CAP-16. Docket No. QF83-244-000, Windpower Partners 1983-1, small power production and cogeneration facilities—qualifying status
CAP-17. Docket Nos. EF81-2011-003 and EF82-2011-002, U.S. Department of Energy—Bonneville Power Administration
CAP-18. Omitted
CAP-19. Docket Nos. ER82-774-001 and 002, Tapoco, Inc.; Docket Nos. ER82-829-001 and 002, Nantahala Power & Light Co.
CAP-20. Docket Nos. ER83-241-001 and 002, Idaho Power Co.
CAP-21. Docket No. ER82-141-000, Public Service Co. of New Hampshire
CAP-22. Docket No. ER82-554-000, Ohio Power Co.
CAP-23. Docket No. ER83-89-002, Northern States Power Co. (Minnesota)
CAP-24. Docket No. ER82-481-004, Arizona Public Service Co.
CAP-25. Docket No. ER82-625-003, Boston Edison Co.
CAP-26. Docket No. ER82-673-005, Kentucky Utilities Co.
CAP-27. Docket No. ER83-164-000, Iowa Public Service Co.
CAP-28. Docket No. ER82-683-000, The Connecticut Light & Power Co.
CAP-29. Omitted
CAP-30. Docket No. EL83-12-000, John F. White
CAP-31. Omitted
CAP-32. Docket No. EL82-19-000, Cliffs Electric Service Co. and Upper Peninsula Generating Co.
CAP-33. Docket No. ID-2023-000, Thomas Madison McDaniel, Jr.
CAP-34. Docket No. ER82-689-000, Gulf Power Co.

Miscellaneous Agenda

CAM-1. Docket No. RM83-34-000, Application for authority to hold interlocking positions requiring approval under section 305(b) of the Federal Power Act
CAM-2. Docket No. RM79-78-186 (Colorado-35), high-cost gas produced from tight formations
CAM-3. Docket No. RM79-76-169 (Texas-22 addition III), high-cost gas produced from tight formations
CAM-4. Docket No. RM79-76-170 (Texas-33), high-cost gas produced from tight formations
CAM-5. Docket No. RM79-76-148 (Oklahoma-5), high-cost gas produced from tight formations
CAM-6. Docket Nos. GP83-7-000, 001, 002 and 003, Amoco Production Co.
CAM-7. Docket Nos. RO81-69-000 and RA82-3-000, Joe E. Smith

Gas Agenda

CAG-1. Docket No. RP83-91-000, Texas Gas Transmission Corp.
CAG-2. Docket No. RP83-97-000, Northern Natural Gas Co.
CAG-3. Docket No. TA83-2-2-000 (PGA83-3), East Tennessee Natural Gas Co.
CAG-4. Docket No. TA83-2-5-000 (PGA83-4), Midwestern Gas Transmission Co.
CAG-5. Docket No. TA83-2-6-000 (PGA83-2), Sea Robin Pipe Line Co.
CAG-6. Docket No. TA83-2-8-000 (PGA83-3), South Georgia Natural Gas Co.
CAG-7. Docket No. TA83-2-9-000 (PGA83-3), Tennessee Gas Pipeline Co.
CAG-8. Docket No. TA83-2-10-000 (PGA83-3), Tennessee Natural Gas Lines, Inc.
CAG-9. Docket No. TA83-2-11-000 (PGA83-2), United Gas Pipe Line Co.
CAG-10. Docket No. TA83-2-12-000 (PGA 83-2), Distrigas of Massachusetts Corp. and Distrigas Corp.
CAG-11. Docket No. TA83-2-48-000 (PTA83-3, PGA83-4), Michigan Wisconsin Pipe Line Co.
CAG-12. Docket No. RP83-93-000, Trunkline Gas Co.
CAG-13. Docket No. TA83-2-25-000, Mississippi River Transmission Corp.
CAG-14. Docket Nos. TA82-2-25-000 and TA83-1-25-000 (PGA82-2, PGA83-1), Mississippi River Transmission Corp.
CAG-15. Docket No. TA83-2-13-000 (PGA83-3), Gas Gathering Corp.
CAG-16. Docket Nos. TA82-2-21-002, 003 and 004 (PGA82-2 IPR82-2 and AP82-2) and RP82-120-005, Columbia Gas Transmission Corp.
CAG-17. Docket Nos. RP82-116-000 and RP83-58-002, Southern Natural Gas Co.
CAG-18. Docket Nos. RP80-106-011 and RP80-106-012, Trunkline Gas Co.

CAG–19. Docket No. RP81–103–000, State of Michigan & Michigan Public Service Commission v. Trunkline Gas Co.; Docket No. RP82–130–000, Consumers Power Company v. Trunkline Gas Co.
CAG–20. Docket No. RP82–116–000, Southern Natural Gas Co.
CAG–21. Docket No. RP80–114–000, Inter-City Minnesota Pipelines Ltd., Inc.
CAG–22. Docket Nos. RP82–62–000, RP83–15–000 and RP81–49–000, et al., Natural Gas Pipeline Co. of America
CAG–23. Docket Nos. TA83–1–33–009 and TA82–2–33–017 (affiliated entities), El Paso Natural Gas Co.
CAG–24. Docket No. CI81–506–003, Petro-Lewis Corp. (operator); Docket No. CI83–188–001, ANR Production Co.
CAG–25. Docket No. CI75–122–001, et al., Getty Oil Co., et al.
CAG–26. Docket No. CI77–635–003, Gulf Oil Corp.
CAG–27. Docket No. TC83–6–001, Arkansas Louisiana Gas Co.
CAG–28. Docket No. CP81–461–001, Cities Service Gas Co.
CAG–29. Docket No. CP76–500–002, Northwest Central Pipeline Corp. (formerly Cities Service Gas Co.)
CAG–30. Docket No. CP82–37–001, Galaxy Energies, Inc.
CAG–31. Docket Nos. CP74–260–006 and CP75–269–005, Natural Gas Pipeline Co. of America
CAG–32. Omitted
CAG–33. Docket No. CP82–421–000, Gas Gathering Corp.
CAG–34. Docket No. CP83–200–000, United Gas Pipe Line Co.
CAG–35. Docket No. CP83–294–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–36. Docket No. CP83–313–000, El Paso Natural Gas Co.
CAG–37. Docket No. CP83–318–000, Intrastate Gathering Corp.
CAG–38. Omitted
CAG–39. Docket No. CP82–543–000, Delhi Gas Pipeline Corp.
CAG–40. Docket No. TA83–2–42–001 (PGA83–2 and IPR83–2), Transwestern Pipeline Co.

Power Agenda

I. Licensed Project Matters

P–1. Project No. 2750–000, Town of Springfield, Vermont and Vermont Public Power Supply Authority
P–2. Project No. 6076–000, Fairview Orchards Associates; Project No. 6839–000, Piedmont Camp Fire Council and Lake Vera Mutual Water Co.
P–3. Project No. 6775–002, Winchester Water Control District and Elektra Power Corp.

II. Electric Rate Matters

ER–1. Docket No. EF81–5021–003, U.S. Secretary of Energy Western Area Power Administration (Colorado River Storage Project)
ER–2. Docket No. EF82–5031–000, Western Area Power Administration (Pick-Sloan Project)
ER–3. Omitted
ER–4. Docket No. EL82–3–000, City of Oakland, California v. Pacific Gas & Electric Co.
ER–5. Docket No. EL82–9–000, South Carolina Public Service Authority
ER–6. Docket No. ER83–420–001, Northern States Power Co.(Wisconsin)

Miscellaneous Agenda

M–1. Omitted
M–2. Docket No. RM81–41–000, sales of electric power to the Bonneville Power Administration; methodology and filing requirements
M–3. Reserved
M–4. Reserved
M–5. Omitted
M–6. Docket No. RM83–52–000, revisions to the filing requirements for changes in a tariff, executed service agreement or part thereof, contained in Title 18 of the Code of Federal Regulations
M–7. Docket No. GP82–50–001, indicated producers—Shell Oil Co., et al., in the matter of the transportation of liquid and liquefiable hydrocarbons by natural gas pipelines (RM81–32); Docket No. GP82–51–001, Associated Gas Distributors, Transportation by Natural Gas Pipelines of producer-owned liquids and liquefiable hydrocarbons under Title I of the Natural Gas Policy Act of 1978 (RM81–39); Docket No. GP82–52–001, Texas Eastern Transmission Corp., transportation by Natural Gas Pipelines of producer-owned liquids and liquefiable hydrocarbons (RM81–43)
M–8. (a) Docket No. RM81–29–000, sales and transportation by interstate pipelines and distributors; (b) Docket No. RM81–19–000, interstate pipeline blanket certificate for routine transactions; Docket No. RM81–29–000, sales and transportation by interstate pipelines and distributors

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket Nos. RP77–62–008, RP80–97–013, RP81–54–002, RP82–10–003, RP82–12–004 and RP81–56–004, Tennessee Gas Pipeline Co.
RP–2. Docket No. RP81–80–000 (phase I), Consolidated Gas Supply Corp.
RP–3. (a) Docket No. RP82–137–000, Texas Gas Transmission Corp.; Docket No. RP83–4–000, Columbia Gas Transmission Corp. v. Texas Gas Transmission Corp.; (b) Docket No. RP83–8–000, Columbia Gas Transmission Corp. v. Tennessee Gas Pipeline Co.; Docket No. RP83–19–000, Tennessee Gas Pipeline Co. v. Columbia Gas Transmission Corp.
RP–4. Docket Nos. RP79–10–002 and RP80–134–007, Great Lakes Gas Transmission Co.
RP–5. Docket Nos. TA81–1–21001 and TA81–2–21–001, Columbia Gas Transmission Corp.

II. Producer Matters

CI–1. Docket No. CI78–968–000, United Gas Pipe Line Co.
CI–2. Docket No. CP80–275–000, Mountain Fuel Supply Co. and Wexpro Co.; Docket No. CI80–233–000, Celsius Energy Co.; Docket No. CI82–216–000, Wexpro Co.

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP81–107–000, CP81–108–000, CP 81–296–000, CP81–298–000, CP82–296–001 and CP82–470–000, Boundary Gas, Inc. and Tennessee Gas Pipeline Co., a division of Tenneco Inc.; Docket Nos. CP82–119–001 and 002, Algonquin Gas Transmission Co.; Docket Nos. CP82–478–000 and 001, ANR Michigan Storage Co.; Docket Nos. CP82–420–000 and 001, ANR Storage Co.; Docket Nos. CP82–428–000 and 001, Great Lakes Gas Transmission Co.; Docket Nos. CP82–502–000 and 001, Michigan Consolidated Pipeline Co.; Docket Nos. CP83–170–000 and 001, Niagara Interstate Pipeline System; Docket No. CP83–249–000, Niagara Interstate Pipeline System; Docket Nos. CP82–296–000, 001 and 002, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Docket No. CP83–103–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Docket Nos. CP82–326–000 and 001, Texas Eastern Transmission Corp.; Docket No. CP82–423–000, Texas Eastern Transmission Corp.; Docket Nos. CP82–446–000, and 001, Texas Eastern Transmission Corp.; Docket Nos. CP82–46–001 and 002, Transcontinental Gas Pipeline Corp., Algonquin Gas Transmission Co. and Texas Eastern Transmission Corp.; Docket Nos. CP82–125–000, 001 and 002, Transcontinental Gas Pipe Line Corp.; Docket Nos. CP82–385–000, 001 and 002, Transcontinental Gas Pipe Line Corp.; Docket Nos. CP82–503–000 and 001, Transcontinental Gas Pipe Line Corp.; Docket Nos. CP82–125–003, 004, 005 and 006, Trans-Niagara Pipeline; Docket No. CP83–314–000, Transcontinental Gas Pipe Line Corp.
CP–2. Docket No. CP74–192–007, et al., Florida Gas Transmission Co.
CP–3. Docket No. CP83–217–000, National Fuel Gas Supply Corp.

Kenneth F. Plumb,

Secretary.

[S–917–83 Filed 6–23–83; 11:30 am]

BILLING CODE 6717–01–M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, June 30, 1983 at 9:30 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTER TO BE CONSIDERED: The following item is continued from the open meeting of June 23, 1983:

Draft Advisory Opinion 1983–15: J. Curtis Herge on behalf of Republican Party of Virginia

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–922–83 Filed 6–23–83; 2:32 pm]

BILLING CODE 6715–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 21, 1983.

TIME AND DATE: 10 a.m. Tuesday, June 28, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Secretary of Labor ex rel. Bruce Pratt v. River Hurricane Coal Company, Docket No. KENT 81-88-D. (Issues include whether the judge erred in concluding that the miner engaged in a work refusal protected under the Mine Act.)

TIME AND DATE: Following oral argument, June 28, 1983.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above listed case:

It was determined by a majority vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-916-83 Filed 6-23-83; 11:30 am]

BILLING CODE 6735-01-M

4

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Meeting

DATE: June 29, 1983.

TIME: 9 a.m.-12 noon.

PLACE: The Kellog Room, eighth floor, One Dupont Circle NW., Washington, D.C. 20036.

PURPOSE: to receive reports from Commission subcommittees.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer (202) 724-2914.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted the 22th day of June 1983.

Richard T. Jerue,

Chief Executive Officer.

[S-918-83 Filed 6-23-83; 12:15 pm]

BILLING CODE 6820-BC-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, June 23, 1983 (revised) and Week of June 27, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, June 23:*

9:15 a.m.:
Affirmation/Discussion and Vote (Public Meeting) (Time Change)
a. Commission Review of ALAB-687
b. Commission Determination on Acceptance of Certified Question from LBP-83-21 on Low-Power Operation at Shoreham Nuclear Power Station

Tuesday, June 28.:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

2:00 p.m.:
Briefing on Final Rule (10 CFR 50.73) Licensee Event Report (LER) System (Public Meeting)

Thursday, June 30:

2:00 p.m.:
Briefing on Emergency Operations Facility for Point Beach Units 1 and 2 (Public Meeting) (Tentative)

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule to Modify Requirement that Power Reactor Licensee Maintain Property Damage Insurance
b. Disposition of Adjudication Concerning Self-Powered Lighting, Inc.
c. Revision to 10 CFR Part 71
d. Review of ALAB-714
e. Final Rule 10 CFR 50.73, Licensee Event Report System (Tentative)

ADDITIONAL INFORMATION:

On June 17, 1983 the Commission voted 5-0 to hold Briefing on Indian Point Labor Issues, held that day.
Discussion of Management-Organization and Internal Personnel Matters (Continuation) was held on June 20, 1983.

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: John Hoyle (202) 634-1410.

John Hoyle,

Office of the Secretary.

June 21, 1983.

[S-920-83 Filed 6-23-83; 1:28 pm]

BILLING CODE 7590-01-M

6

POSTAL SERVICE

Board of Governors

Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1 p.m. on Thursday, July 7, in Austin, Texas, and at 8 a.m. on Friday, July 8, in the West Conference Room of th Lyndon Baines Johnson Library, 2313 Red River, Austin, Texas. As indicated in the following paragraph, the July 7 meeting is closed to public observation. The July 8 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

At its meeting on June 13, 1983, the Board voted in accordance with the provisions of the Sunshine Act to close to public observation its meeting scheduled for July 7. (See 48 FR 27884, June 17, 1983.) The agenda items of the meeting to be closed concern strategic planning in regard to possible future rate adjustments and discussion of Postal Rate Commission Recommended Decision of April 18, 1983, on third-class bulk rates for nonprofit mail.

Agenda

Thursday Session, July 7 (Closed) *1:00 p.m.:*

1. Strategic Planning—Future Rate Adjustments.
2. Discussion of Postal Rate Commission recommended Decision of April 18, 1983, on third-class bulk rates (for nonprofit mail)—Docket No. R80-1.

Friday Session, July 8 (Open) *8:00 a.m.:*

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Officer Compensation.
   (The Board will consider approval of a recommendation by the Postmaster General regarding adjustments in officer compensation.)
4. Discussion of Postal Rate Commission Recommended Decision on Elimination of the Aggregate Letter Rule.
   (Docket No. MC-82-2).
5. Proposed Capital Investments.
   (Projects presented:
   a. Air Contracting Support System
   b. Reading, PA GMF/VMF
   c. San Bruno PDC Relocation
   d. 5,645 ½-Ton Route Delivery Vehicles)
6. Status Report on EEO Program and Discipline Impact on Minorities.
   (Mr. Joel Trosch, Executive Director, Office of Equal Employment Opportunity, will brief the Board on the EEO program and the results of a study on discipline in light of the *Chisholm* class action suit.)
7. Update of 5-Year Plan.

(Mr. Cummings, Assistant Postmaster General, Planning, will brief the Board on the 5-Year Plan.)

8. Policy on *Ex-parte* Communications.
(The Board will consider proposed guidelines on *ex-parte* communications to the Governors on issues in rate and classification proceedings that are subject to Chapter 36 of title 39, United States Code.)

9. Consideration of a Tentative Agenda for the August 1–2, 1983 meeting of the Board in Minneapolis, MN.

David F. Harris,

Secretary.

[S-920-83 Filed 6-23-83; 2:09 pm]

BILLING CODE 7710-12-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held the following meeting on Tuesday, June 21, 1983, at 3 p.m. at 450 5th Street NW., Washington, D.C., to consider the following item.

Settlement of injunctive action.

The Commissioners, Counsel for the Commissioners and the Secretary of the Commission attended the closed meeting. Certain stafff members who are responsible for the calendared matter were present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item considered at the closed meeting was considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4), (8), (9)(a) and (10) and 17 CFR 200.402 (a)(4), (8), (9)(i) and (10).

• Commissioners Thomas, Longstreth and Treadway voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

June 22, 1983.

[S-919-83 Filed 6-23-83; 12:15 pm]

BILLING CODE 8010-01-M

8

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors.

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of change in time of meeting.

SUMMARY: Interested members of the public are advised that the time for commencement of the Board of Directors of the United States Synthetic Fuels Corporation to be held on June 30, 1983 in room 503 of the Corporation's offices at 2121 K Street, N.W., Washington, D.C. 20586, has been changed from 9 a.m. to 10 a.m. (e.d.t.).

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Legal Services Group, (202) 822–6336.

Synthetic Fuels Corporation.

Dated: June 23, 1983.

Jimmie R. Bowden,

Executive Vice President.

[S-923-83 Filed 6-23-83; 8:45 am]

BILLING CODE 0000-00-M

federal register

Monday
June 27, 1983

Part II

Department of Energy

Nonnuclear Weapon States in Management of Spent Nuclear Fuel; Assistance

DEPARTMENT OF ENERGY

Assistance to Nonnuclear Weapon States in Management of Spent Nuclear Fuel

AGENCY: Department of Energy.

ACTION: Request for expressions of interest by U.S. commercial organizations in providing direct assistance to nonnuclear weapon countries for managing spent fuel from nuclear power reactors.

SUMMARY: The Department of Energy and the Nuclear Regulatory Commission, in accordance with Section 223 of the Nuclear Waste Policy Act (Pub. L. 97–425), January 7, 1983 (the Act), have offered their cooperation and technical assistance to nonnclear weapon countries in managing spent fuel from nuclear power reactors. In those instances where cooperation and technical assistance can be provided directly by U.S. business organizations, the nonnuclear weapons countries will be encouraged to develop direct business arrangements with these organizations. The Department is soliciting expressions of interest from U.S. business organizations in order to assure complete representation of U.S. commercial sources to the nonnuclear weapons countries at the earliest stages of cooperation.

DATES: Requests for information and formal expressions of interest should be received within 30 days of publication.

ADDRESSES: Requests for information and formal expressions of interest should be sent to: Robert L. Morgan, Project Director, Nuclear Waste Policy Act Project Office, U.S. Department of Energy, Washington, D.C. 20585. (Telephone: 202/252–6850).

SUPPLEMENTARY INFORMATION: Section 223 of the Act requests that the Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) offer their cooperation and technical assistance to the relevant nonnuclear weapon states (NNWS) [countries] in the management of spent fuel from nuclear power reactors. The offer was published as a Notice in the **Federal Register** on March 30, 1983 (48 FR 13253). The duration of the offer will be for 5 years, to be reviewed annually.

The general scope of the offer includes (a) at-reactor storage, (b) away-from-reactor storage, (c) monitored, retrievable storage, (d) geologic disposal of spent fuel, and (e) the health, safety, and environmental regulation of such activities. The Notice summarized DOE and NRC resources that could be made available under the offer. Expressions of interest by the NNWS currently being solicited.

Participation: It is envisioned that some NNWS needs for assistance can be met through normal business arrangements directly between the NNWS and U.S. commercial entities. However, the request for assistance by the NNWS will be made to the DOE. The DOE intends to provide the NNWS with a record of U.S. business organizations that could be contacted directly to meet the assistance requirements wherever possible through normal business arrangements. In order to assure a complete record of interested U.S. commercial participants, the DOE hereby solicits expressions of interest by U.S. commercial organizations. Responses should include the following information:

—Name of firm or utility
—Address and telephone number
—Management contact
—Specific area of interest and capability (design, construction, operation, engineering analyses, etc.)
—Short summary of relevant experience
—Additional information may be appended.

Issued in Washington, D.C. June 17, 1983.

Robert L. Morgan,

Project Director, Nuclear Waste Policy Act Project Office.

[FR Doc. 83-17139 Filed 6-24-83; 8:45 am]

BILLING CODE 6450-01-M

Reader Aids

Federal Register

Vol. 48, No. 124

Monday, June 27, 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	523-4534
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, JUNE

24311-24652 1
24653-24854 2
24855-25168 3
25169-26278 6
26279-26442 7
26443-26584 8
26585-26750 9
26751-27026 10
27027-27218 13
27219-27390 14
27391-27530 15
27531-27714 16
27715-28068 17
28069-28186 20
28187-28420 21
28421-28608 22
28609-28968 23
28969-29462 24
29463-29664 27

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-7 of June 3, 1983 26585

Executive Orders:

September 15, 1916 (Revoked in part by PLO 6392) 26315
September 30, 1916 (Revoked in part by PLO 6392) 26315
May 21, 1920 (Revoked in part by PLO 6392) 26315
12400 (Amended by EO 12424) 27219
12424 27219
12425 28069
12426 29463

Proclamations:

5066 24855
5067 26443
5068 27391
5069 28187
5070 28421

5 CFR

Ch. XIV 28814
213 24857
581 26279
2423 27531

Proposed Rules:

950 29458
2422 28816
2426 28816
2429 28816

7 CFR

1 28189
2 27715
51 26751
52 26752
68 24857
210 27886
225 29122
227 29122
235 ..... 27886, 29122
246 29122
247 29122
250 ..... 27716, 28609, 29122
253 29122
272 28190
273 28190
282 29124
301 ..... 28423, 28646
319 24311
354 26294
905 27221
906 27532
910 ..... 24859, 26587, 26757, 27716, 28424, 28969
911 28969
915 24860
916 24653
918 28969
923 28969
925 28969
930 ..... 28613, 28969
932 24311
944 24860
959 25169
966 26757
1002 28655
1004 28655
1033 24861
1036 24863
1139 24864
1464 28425
1823 29120
1900 28193
1901 29120
1933 29120
1942 29120
1944 29120
1948 29120
1980 29120
3015 ..... 27222, 29100, 29114, 29115

Proposed Rules:

51 24723
403 29520
415 28465
422 28468
428 28472
430 28994
433 28476
800 ..... 27082, 27084
810 28998
1001 29523
1007 24391
1046 ..... 24905, 27763
1124 29529
1125 26460
1133 26460
1207 24724
1701 28999
1746 28999
3015 29118

8 CFR

109 29465

9 CFR

78 28067
92 ..... 24866, 28426
113 28428
318 24314

Proposed Rules:

72 27256
91 27255
92 27257

10 CFR

20 26295

25 ..... 24318, 27533
35 28431
60 28194
61 26295
95 24318
455 28071
474 28432
600 29174
1005 29174

Proposed Rules:

50 ..... 24391, 28282
73 28282
430 28014
625 27482
960 26440

11 CFR

102 26300
114 26303

12 CFR

4 29466
5 26758
29 28970
32 27224
204 28971
207 ..... 26587, 28229
211 26445
217 27393
220 ..... 26587, 26589, 28229
221 ..... 26587, 28229
224 ..... 26587, 28229
250 28973
303 ..... 27027, 28073
304 ..... 28073, 28079
309 28079
347 28073
505c 26590
572a 27394
601 28976
612 28615

Proposed Rules:

7 24913
202 28285
225 28286
250 29001
614 25210

13 CFR

101 28624
121 26760
133 28080
135 29380
303 29126
307 29126
309 29126

14 CFR

21 29466
23 29466
39 ..... 26590–26593, 27030, 27031, 27533, 28081–28083, 28625, 29467–29473
71 ..... 25169, 25170, 26594–26596, 27032–27034, 28084, 28085, 28625, 28626
75 26596
95 24654
97 ..... 27534, 28627
152 29264
204 26596
252 24866
389 24323
1204 29334

Proposed Rules:

Ch. I 28657
21 28658–28663
23 26623
39 ..... 25210, 27085–27087, 27549, 28103, 29535–29538
61 28104
71 28667
73 28106
91 28106
120 28118
121 ..... 25211, 28118
135 28118
139 25211
159 25215
221 24916
252 24918
291 ..... 24922, 26830
377 24923

15 CFR

13 29126
369 24323
371 25171
373 25174
376 25171
379 25171
386 ..... 25171, 26303, 26449
399 ..... 25171, 25174, 26450
905 29126
920 29126
921 29126
923 29126
930 29126
931 29126
932 29126
933 29126
2013 28629
2301 29126

16 CFR

13 28977
423 ..... 24868, 27225
453 25174
1406 ..... 26761, 28229

Proposed Rules:

13 ..... 24724, 27089, 27258
457 25218
1051 27763
1052 27763
1105 27763
1109 27763
1110 27763
1145 27409
1607 27763

17 CFR

1 28631
170 ..... 26304, 28633
190 28977
200 24663
210 28230
211 ..... 27225, 28230
240 ..... 24663, 27524, 28231
249 24663
270 25175

Proposed Rules:

1 27411
12 25218
31 28668
210 26623
229 27768
230 27768
240 ..... 24725, 24728, 28109
270 ..... 25220, 26460
275 27771

18 CFR

2 ..... 24323, 24358
4 29474
35 24323
271 ..... 25177–29179, 28115
282 28981
292 29475
385 29477
1311 29392

Proposed Rules:

35 26831
271 ..... 24730–24732, 25223, 28112–28115

19 CFR

10 28982
101 25180
146 27536
177 ..... 25180, 27538, 28982

Proposed Rules:

Ch. I 26831
10 27776
24 28671
101 ..... 27092, 27265
123 26832
147 27776
152 27778
175 ..... 26833, 27780
177 ..... 25224, 28673

20 CFR

416 27538

Proposed Rules:

632 24392
633 24392
634 24392
635 26430
684 24392

21 CFR

5 26311
81 27721
131 24868
155 28983
175 24869
177 ..... 26312, 26761
178 ..... 24869, 27721
193 ..... 28249, 28432
357 27004
436 28249
442 28249
444 27722
448 27722
455 27722
510 ..... 24870, 24871, 28983
520 ..... 24871, 26762
522 26313
524 28983
540 ..... 24872, 24873
558 ..... 24871, 27722, 28983
561 28432
600 26313
868 27723
895 ..... 25126, 25137, 27724

Proposed Rules:

16 27780
20 27780
101 27266
131 27782
158 26319
182 27782
184 27782
201 27389
310 26986
312 26720
341 24925
429 27389
899 27780

22 CFR

121 28633
1303 28984

Proposed Rules:

11 26834

23 CFR

Ch. I 24852, 25181
420 29264
625 27539
650 29264
740 29264

24 CFR

8 27528
50 29206
52 29206
111 24361
202a 28794
203 ..... 27398, 28794, 28807, 28965
209 28794
211 28794
213 ..... 27398, 28794
220 28794
221 ..... 27035, 28794
222 28794
226 28794
228 28794
234 ..... 27035, 27398, 28794
235 ..... 27035, 28794, 28965
237 28794
245 28433
570 29206
590 29206
595 29206
600 29206
720 29206
841 29206
870 29206
880 29206
881 29206
883 29206
885 29206
891 29206
1800 24873

Proposed Rules:

8 27529
841 29003

25 CFR

249 26250

Proposed Rules:

250 29004
700 24734

26 CFR

31 28252
601 24668

Proposed Rules:

1 ..... 24736, 25224, 25228, 29538
52 ..... 29007, 29011

27 CFR

21 24672
212 24672

Proposed Rules:

4 27782

5 27782
7 27782
9 ..... 24737, 29539, 29541

28 CFR

0 ..... 25183, 28633
30 29238
540 24622
550 24623
551 24623

Proposed Rules:

547 24626
570 24626
571 24626

29 CFR

17 29250
1625 26434

Proposed Rules:

1910 26962
1952 26836
2670 27092
2675 27092

30 CFR

46 29250
226 26763
256 26778
260 24873
764 24638
785 24638
816 24638
817 24638
818 24638
886 27363
916 24874
931 28086
934 28986
944 24876
946 ..... 25184, 28088

Proposed Rules:

57 27024
250 26837
901 24739
913 ..... 24741; 27550
917 ..... 26839, 27101, 29544
936 24928
938 ..... 27102, 27551, 28286
942 25229
946 ..... 26624, 27552, 29545
948 ..... 24393, 27784, 28480

32 CFR

1-39 ..... 28826, 28908
199 28438
242b 26451
243 29140
634 28252
806b 24878
823 27540

33 CFR

81 28634
100 ..... 25186, 26599-26602, 27540, 28637
115 29479
117 ..... 26602, 28637, 29479
165 25187
384 29144

Proposed Rules:

117 ..... 26625, 28674
162 ..... 25231, 27103, 27553

34 CFR

75 29158
76 29158
79 29158
668 26779
682 24584

35 CFR

101 27399
103 27399
253 27399

36 CFR

50 28058
212 28638
219 29122
222 25187
251 ..... 28638, 29122
254 28638
262 26603

Proposed Rules:

7 27553
13 26319

37 CFR

2 27225

Proposed Rules:

1 26319
5 26319

38 CFR

1 27400
3 27036
36 ..... 27226, 27401
40 29404

Proposed Rules:

17 26627

39 CFR

10 ..... 27227, 28267
601 28268
775 29370
776 29370
778 29370

Proposed Rules:

111 ..... 27103, 27267, 28116
265 28481

40 CFR

1 27227
29 29288
35 29288
40 29288
51 29288
52 ..... 24362, 24689, 28269, 28271, 28988, 29479
55 28639
60 28271-28273
61 ..... 28272, 28273
81 28988
144 27039
146 27039
162 26451
173 28439
180 ..... 24364, 24365, 24689, 26452, 28440-28442
204 27039
205 27039
211 27039
255 29288
271 ..... 27040, 28273, 28988
712 ..... 27041, 28443
716 24366
720 27043
763 27041

Proposed Rules:

Ch. I 24930
51 26840
52 ..... 26841, 28288, 28290, 29012
65 24930
66 26627
67 26627
81 24393
86 24932
145 26842
180 ..... 24394, 24396, 26629
271 25236
403 24933
405 24742
406 24742
407 24742
408 24742
409 24742
411 24742
412 24742
422 24742
424 24742
426 24742
429 24742
430 24742
431 24742
432 24742
433 24742
440 24742
600 26698
610 24397
716 28483
764 28292

41 CFR

Ch. 7 25188
Ch. 101 27541
1-15 26453
3-3 26605
15-1 28274
101-6 29322
101-29 25196
101-41 ..... 27235, 27724
101-45 ..... 24878, 27236
101-47 ..... 24879, 25199
101-49 27404
105-53 25200

42 CFR

51c 29188
52b 29188
55a 29188
56 29188
57 25064
66 24879
122 29188
431 29450
433 29480

Proposed Rules:

57 ..... 25071, 25072
431 28089

43 CFR

9 29224
23 27008
1600 26314
3200 ..... 24367, 28277
3210 24367
3220 24367
3240 24367
3250 24367
3600 27008
3610 27008
3620 27008

Public Land Orders:

6377 26780
6378 28277
6391 25205
6392 26315

Proposed Rules:

3000 26320
3100 26320
3130 28117
3900 28292
8370 26485
8560 27366

44 CFR

4 29308
9 29308
59 29308
60 29308
64 ..... 24369, 26780, 26796, 27248, 27727, 28277
65 ..... 26605, 27247, 27249, 28277
67 ..... 24370, 26784, 26796, 27404
70 ..... 27237-27246, 28277
76 29308
205 28990
300 29308
302 29308

Proposed Rules:

11 27791
67 ..... 24743, 26629, 26630, 27414, 27555
302 27105

45 CFR

100 29188
206 28398
224 29188
232 28398
233 28398
234 28398
238 28398
240 28398
660 29358
1152 29344
1180 27727
1207 26802
1208 26808
1209 26815
1233 29278
1351 29189
1626 28089

Proposed Rules:

1627 28485

46 CFR

32 29486
67 29486
221 27044
310 27044

Proposed Rules:

93 29551
125 26631
126 26631
127 26631
128 26631
129 26631
130 26631
131 26631
132 26631
133 26631
134 26631
135 26631
136 26631
542 27112
543 27112

544.....27112

47 CFR

Ch. I.....27044
0.....24383, 26606
1.....24884, 27182
2.....27054, 27541, 28445
21.....27251
22.....26820, 27182, 27251
23.....27251
31.....27072
73.....24383, 24898, 26453, 26608, 27054, 27182, 27545, 27546, 28445–28458, 29486
74.....24383, 27406
76.....27054
81.....27182, 28640
83.....28640
87.....27182
90.....26617, 27182, 28279, 29512
94.....27182
95.....24884
97.....26455, 26606

Proposed Rules:

Ch. I.....28674
2.....24945, 26461
22.....24945
61.....28292
63.....28292
68.....29014
69.....26632
73.....24945, 24949, 26462–26471, 27562–27581, 28294, 28295, 28487–28499, 29551, 29552
74.....24945, 29553
76.....26472
90.....27797
94.....24950, 27113
96.....24953
97.....24954, 26647

49 CFR

Ch. X.....27253
1.....27546
17.....29264
25.....29264
171.....27674, 28095
172.....27674, 28095
173.....27674, 28095
174.....27674
176.....27674, 28095
177.....27674, 28095
178.....27674, 28095
179.....27674
192.....25206
195.....25206
266.....29264
450.....29264
501.....27547
571.....24690, 24717, 25209, 27547
1011.....26456
1033.....24386, 28992
1039.....24900, 26822, 27254,
1152.....27547
1153.....24386
1162.....24388
1175.....26317, 28281
1176.....26317, 28281
1307.....24388

Proposed Rules:

Ch. X.....24397
25.....26649
172.....26650
173.....25236, 26650
179.....25236
571.....24751, 25237, 27583, 29560
1102.....29024
1152.....27269, 27584
1155.....27271
1186.....26485

50 CFR

17.....28460
20.....26457
250.....26621
260.....24901
285.....27745
301.....27073
371.....24902
401.....29126
424.....24718, 24903
611.....24719, 27075
652.....29518
674.....27080

Proposed Rules:

17.....26488, 28500, 28504
20.....27799
23.....26651
424.....27273
611.....25238
646.....26843
661.....26653
671.....27807
674.....24751
675.....25238

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 June 24, 1983

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.



LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$20.00 per year

Federal Register Index

The Index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$21.00 per year

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers:
FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please enter the subscription(s) I have indicated:

____ **LSA**
List of CFR Sections Affected
$20.00 a year domestic;
$25.00 foreign

____ **Federal Register Index**
$21.00 a year domestic;
$26.25 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity	Charges
_____ Publications	
_____ Subscription	
Special Shipping Charges	
International Handling	
Special Charges	
OPNR	
_____ UPNS	
_____ Balance Due	
_____ Discount	
_____ Refund	

882