AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

OK

7-18-83
Vol. 48 No. 138
Pages 32551-32746

federal register

Monday
July 18, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aircraft
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Communications Common Carriers
Federal Communications Commission

Disaster Assistance
Federal Emergency Management Agency

Electric Utilities
Federal Energy Regulatory Commission

Energy Conservation
Conservation and Renewable Energy Office

Flood Insurance
Federal Emergency Management Agency

Investment Companies
Securities and Exchange Commission

Loan Programs—Housing and Community Development
Veterans Administration

Radio
Federal Communications Commission

Reporting and Recordkeeping Requirements
Commodity Futures Trading Commission

CONTINUED INSIDE

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 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.

Selected Subjects

Tires
National Highway Traffic Safety Administration

Trade Practices
Federal Trade Commission

Contents

Federal Register
Vol. 48, No. 138
Monday, July 18, 1983

The President
EXECUTIVE ORDERS
32551 Minority business enterprise development (EO 12432)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
32616 Adjudication Committee

Agriculture Department
See Packers and Stockyards Administration.

Air Force Department
NOTICES
32621 Agency forms submitted to OMB for review
Meetings:
32621 Scientific Advisory Board

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
32606 Ingredient labeling of wine, distilled spirits, and malt beverages; extension of time
NOTICES
Meetings:
32716 Winegrape Varietal Names Advisory Committee

Arms Control and Disarmament Agency
NOTICES
Meetings:
32616 General Advisory Committee; cancellation

Army Department
See also Engineers Corps.
NOTICES
Environmental statements; availability, etc.:
32621 Johnston Atoll; chemical agent disposal system

Arts and Humanities, National Foundation
NOTICES
Meetings:
32704 Humanities Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
32620 Procurement list, 1983; additions and deletions

Civil Aeronautics Board
NOTICES
Hearings, etc.:
32616 Regent Air Corp.
32616 Unicorn Air, Ltd.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
32616 Massachusetts

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
32617 Agency forms submitted to OMB for review

Commodity Futures Trading Commission
RULES
Reports:
32554 General provisions; quantities fixed for reporting
PROPOSED RULES
Reports:
32603 Large trader reports; silver bullion lower position levels and omnibus accounts on a gross basis

Conservation and Renewable Energy Office
RULES
32722 Energy Extension Service

Consumer Product Safety Commission
NOTICES
32718 Meetings; Sunshine Act

Defense Department
See also Air Force Department; Army Department; Engineers Corps; Uniformed Services University of the Health Sciences.
NOTICES
Meetings:
32621 Science Board task forces

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
32624 Bethlehem Steel Corp.
32624 Gold Bond Building Products Co. et al.
32625 Xtek, Inc., et al.
Remedial orders:
32625 Hydrocarbons, Ltd.
32625 Liberty Trading Co. et al.
32625 Warrior Oil Co., Inc.

Education Department
NOTICES
Meetings:
32622 Adult Education National Advisory Council

Energy Department
See also Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
32623 Australia
32623 European Atomic Energy Community
32623 European Atomic Energy Community and Japan
32624 Switzerland (2 documents)

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
32622 Sampit River, Georgetown County, S.C.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
32572 Tennessee
Hazardous waste programs; interim authorizations; State programs:
32573 Alabama
PROPOSED RULES
Air pollution control; aircraft and aircraft engines:
32745 Emission standards and test procedures; visible smoke standards for aircraft; turbojet and turbofan engines
Water pollution; effluent guidelines for point source categories:
32607 Best conventional pollutant control technology (BCT) guidelines; revised methodology; extension of time, etc.
NOTICES
32647 Agency forms submitted to OMB for review
Toxic and hazardous substances control:
32730 4-Chlorobenzotrifluoride; negotiated testing program

Federal Aviation Administration
RULES
Airworthiness directives:
32553 Piper
32554 Transition areas
PROPOSED RULES
32595 Transition areas
NOTICES
Advisory circulars; availability, etc.:
32716 Airplanes, small; unusable fuel test procedures
Meetings:
32716 VFR air traffic control tower services; contracting-out seminar

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
32576 World Administrative Radio Conference, 1979; implementation; correction
Radio services, special:
32586 Amateur service; novice class operator license, eligibility procedures
32576 Land mobile services, private; radio-location service, need for transmission of call signs by stations
32578 Private operational-fixed microwave service; methods of transmitting program material to hotels, etc.
PROPOSED RULES
Common carrier services:
32612 Telephone companies; occupational classification and compensation of employees and wire telegraph employees classification; removal from CFR
Radio services, special:
32614 Land mobile services; Forest Products Radio Service; sharing of frequencies; proceeding terminated
32607 Maritime services; search and rescue operations by governmental entitles
32610 Maritime services; use of marine VHF Channel 88 in Puget Sound Area, etc.
NOTICES
32679 Agency forms submitted to OMB for review
Hearings, etc.:
32643, 32658 Advanced Mobile Phone Service, Inc., et al. (2 documents)
32669 Advanced Mobile Phone Service, Inc., et al.; correction
32669 Affiliated Broadcast Systems et al.
32665 Bell, Floyd, et al.
32664, 32670 Broadcast Data Corp. et al. (2 documents)
32670 Eagle Broadcasting Co., Inc., et al.
32671 GTE Mobilnet of San Francisco, Inc., et al.
32665 Gunter, George E., et al.
32667 Hi Band Broadcasting Co. et al.
32667 Laurel Television, Inc., et al.
32675 Mesquite Independent School District et al.
32676 MTF Enterprises et al.
32677 Pike Broadcasting Corp. et al.
32677 Seven Locks Broadcasting Co. et al.

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
32574 New York et al.
32734 Housing assistance, temporary

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act) and natural gas companies (Natural Gas Act):
32567 Uniform system of accounts; technical amendments
PROPOSED RULES
Electric utilities (Federal Power Act):
32604 Interlocking positions, authority for application to hold; filing requirement changes
NOTICES
Hearings, etc.:
32627 Algonquin Gas Transmission Co.
32628 Central Power & Light Co. et al.
32628 Champlin Petroleum Co.
32628 Consolidated Gas Supply Corp.
32629, 32630 Duke Power Co. (2 documents)
32630 El Paso Natural Gas Co.
32631 Florida Gas Transmission Co.
32631 Florida Power & Light Co.
32631 Gulf States Utilities Co.
32632 Jersey Central Power & Light Co.
32632 K N Energy, Inc.
32632 Lawrenceburg Gas Transmission Corp.
32633 Mid Louisiana Gas Co.
32633 National Fuel Gas Supply Corp. (2 documents)
32633 Niagara Mohawk Power Corp.
32634 Pacific Power & Light Co. (2 documents)
32634 Public Service Co. of Oklahoma et al.
32635 Southwestern Electric Power Co.
32635 Texas Eastern Transmission Corp.
32636 Texas Gas Transmission Corp.
32636 Trunkline LNG Co. et al.
32636, 32637 United Gas Pipe Line Co. (2 documents)

32637, 32638 Western Gas Interstate Co. (2 documents)
32637 West Lake Arthur Corp.
32638 Hydroelectric applications

Federal Maritime Commission
NOTICES
32679, 32682 Agreements filed, etc. (3 documents)
Energy and environmental statements; availability, etc.:
32681 Pacific Coast European Conference
Freight forwarder licenses:
32680 Apollo International Co.
32680 Cargo International Freight Service Corp.
32680 Eastern Forwarding International, Inc., et al.
32680 J. S. Lipinski Co.
Investigations, hearings, petitions, etc.:
32681 United States North Atlantic-Italy Pool Agreement

Federal Mine Safety and Health Review Commission
NOTICES
32718 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
32682 Banc of Reynolds
32682 One Valley Bancorp. of West Virginia, Inc., et al.

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
32596 Amana Refrigeration, Inc.
32598 Foote, Cone & Belding Advertising, Inc.
32600 Washington, D.C. Dermatological Society

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
32617 California

Health and Human Services Department
NOTICES
32683 Alien foreign medical graduates visa requirement; examinations

Indian Affairs Bureau
NOTICES
Judgment funds; plan for use and distribution:
32684 Red Lake Band of Chippewa Indians

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service.

International Trade Administration
NOTICES
Countervailing duties:
32618 Textiles and textile products from Argentina
Scientific articles; duty free entry:
32619 State University of New York at Buffalo
32619 University of Florida/Shands Hospital, Inc., et al.
32620 University of Idaho

Interstate Commerce Commission
RULES
Rail carries:
32593 Export coal; exemption; extension of time; correction
NOTICES
Motor carriers:
32687 Finance applications
32688–32691 Lease and interchange of vehicles (6 documents)
32692, 32694 Permanent authority applications (2 documents)
32697 Permanent authority applications; restriction removals
32698 Temporary authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
32685 Bacon Motor Express, Inc., et al.
32698 Hall Trucking, Inc.
32687 Motorcar Transport Co.
Railroad operation, acquisition, construction, etc.:
32702 East Tennessee Railway Corp.
32703 Green Bay Packaging, Inc.
32703 New York Cross Harbor Railroad Terminal Corp.

Land Management Bureau
PROPOSED RULES
Forest management:
32607 Sales of forestry products; timber, advertised sales without legal access; correction
NOTICES
Meetings:
32683 Battle Mountain District Advisory Council
Withdrawal and reservation of lands, proposed, etc.:
32683 Alaska

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
32684 Conoco Inc.

National Capital Planning Commission
NOTICES
32703 Agency forms submitted to OMB for review

National Highway Traffic Safety Administration
RULES
Consumer information:
32588 Uniform tire quality grading standards; treadwear grading requirements; response to petitions

National Oceanic and Atmospheric Administration
RULES
Fishery products, processed:
32593 Inspection and certification; fees and charges

National Park Service
NOTICES
Environmental statements; availability, etc.:
32684 Steel Creek-Lost Valley Area, Buffalo National River, Ark.
Meetings:
32685 Kalaupapa National Historical Park Advisory Commission

32685 Santa Monica Mountains National Recreation Area Advisory Commission

National Transportation Safety Board
NOTICES
32711 Accident reports, safety recommendations, and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
32705 Dairyland Power Cooperative
32711 Energy Department et al.; postponement
32707 GPU Nuclear Corp.
32708 Pennsylvania Power & Light Co. et al.
Meetings:
32710 Reactor Safeguards Advisory Committee
32710 Reactor Safeguards Advisory Committee; proposed schedule
Senior Executive Service:
32705 Performance Review Board; membership

Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
32616 Bridgeport Livestock Auction et al., Tex.

Postal Service
NOTICES
32713 Rate and classification proceedings, communications with Governors of Postal Service; policy statement and inquiry

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
32607 Seaway regulations; navigation closing procedures; correction
NOTICES
Meetings:
32716 Advisory Board

Securities and Exchange Commission
RULES
Investment companies:
32555 Open-end investment companies (money market funds); valuation of debt instruments and computation of current price per share
NOTICES
Hearings, etc.:
32715 Pep Boys—Manny, Moe & Jack
32714 Precious Metals Holdings, Inc.
Self-regulatory organizations; unlisted trading privileges:
32714 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
32715 Agency forms submitted to OMB for review

Synthetic Fuels Corporation
NOTICES
Synthetic fuels projects, competitive solicitations; availability, etc.:
32717 Bituminous coal gasification, eastern province and eastern region of interior province; clarification

Transportation Department
See Federal Aviation Administration; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau.

Uniformed Services University of the Health Sciences
NOTICES
32718 Meetings; Sunshine Act

Veterans Administration
RULES
Loan guaranty:
32571 Manufactured home, home and condominium, and home improvement loans; interest rates
NOTICES
Meetings:
32717 Educational Allowances Station Committee

Part II
32722 Department of Energy, Office of Conservation and Renewable Energy

Part III
32730 Environmental Protection Agency

Part IV
32734 Federal Emergency Management Agency

Part V
32745 Environmental Protection Agency

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:
12432 32551

10 CFR
465 32722

14 CFR
39 32553
71 32554
Proposed Rules:
71 32595

16 CFR
Proposed Rules:
13 (3 documents) 32596–32600

17 CFR
15 32554
270 32555
Proposed Rules:
15 32603
17 32603
18 32603

18 CFR
101 32567
104 32567
201 32567
204 32567
Proposed Rules:
45 32604

27 CFR
Proposed Rules:
4 32606
5 32606
7 32606

33 CFR
Proposed Rules:
401 32607

38 CFR
36 32571

40 CFR
52 32572
271 32573
Proposed Rules:
87 32745
405 32607
406 32607
407 32607
408 32607
409 32607
411 32607
412 32607
422 32607
424 32607
426 32607
429 32607
430 32607
431 32607
432 32607
433 32607
440 32607

43 CFR
Proposed Rules:
5400 32607

44 CFR
64 32574
205 32734
206 32734

47 CFR
2 32576
90 32576
94 32578
97 32586
Proposed Rules:
2 (2 documents) 32607, 32610
51 32612
52 32612
81 (2 documents) 32607, 32610
83 (2 documents) 32607, 32610
90 32614

49 CFR
575 32588
1039 32593

50 CFR
260 32593

Federal Register
Vol. 48, No. 138
Monday, July 18, 1983

Presidential Documents

Title 3—

The President

Executive Order 12432 of July 14, 1983

Minority Business Enterprise Development

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 205(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a)), in order to provide guidance and oversight for programs for the development of minority business enterprise pursuant to my statement of December 17, 1982 concerning Minority Business Development; and to implement the commitment of the Federal government to the goal of encouraging greater economic opportunity for minority entrepreneurs, it is hereby ordered as follows:

Section 1. *Minority Business Development Plans.* (a) Minority business enterprise development plans shall be developed by each Federal agency having substantial procurement or grantmaking authority. Such agencies shall submit these plans to the Cabinet Council on Commerce and Trade on an annual basis.

(b) These annual plans shall establish minority enterprise development objectives for the participating agencies and methods for encouraging both prime contractors and grantees to utilize minority business enterprises. The plans shall, to the extent possible, build upon the programs administered by the Minority Business Development Agency and the Small Business Administration, including the goals established pursuant to Public Law 95–507.

(c) The Secretary of Commerce and the Administrator of the Small Business Administration, in consultation with the Cabinet Council on Commerce and Trade, shall establish uniform guidelines for all Federal agencies to be utilized in establishing the minority business programs set forth in Section 2 of this Order.

(d) The participating agencies shall furnish an annual report regarding the implementation of their programs in such form as the Cabinet Council on Commerce and Trade may request, and at such time as the Secretary of Commerce shall designate.

(e) The Secretary of Commerce shall provide an annual report to the President, through the Cabinet Council on Commerce and Trade, on activities under this Order and agency implementation of minority business development programs.

Sec. 2. *Minority Business Development Responsibilities of Federal Agencies.* (a) To the extent permitted by law and consistent with its primary mission, each Federal agency which is required to develop a minority business development plan under Section 1 of this Order shall, to accomplish the objectives set forth in its plan, establish programs concerning provision of direct assistance, procurement assistance, and management and technical assistance to minority business enterprises.

(b) Each Federal agency shall, to the extent permitted by law and consistent with its primary mission, establish minority business development programs, consistent with Section 211 of Public Law 95–507, to develop and implement incentive techniques to encourage greater minority business subcontracting by Federal prime contractors.

(c) Each Federal agency shall encourage recipients of Federal grants and cooperative agreements to achieve a reasonable minority business participation in contracts let as a result of its grants and agreements. In cases where

State and local governments are the recipients, such encouragement shall be consistent with principles of federalism.

(d) Each Federal agency shall provide the Cabinet Council on Commerce and Trade such information as it shall request from time to time concerning the agency's progress in implementing these programs.

Ronald Reagan

THE WHITE HOUSE,
July 14, 1983.

[FR Doc. 83-19533
Filed 7-15-83; 10:42 am]
Billing code 3195-01-M

Editorial Note: For the President's remarks of July 14, 1983, on signing Executive Order 12432, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 28).

Rules and Regulations

Federal Register
Vol. 48, No. 138
Monday, July 18, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-62-AD; Amdt. 39-4686]

Airworthiness Directives; Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) airplanes. It requires installation of a placard prohibiting the use of flaps and revision of the Airplane Flight Manual (AFM) or Pilot's Operational Handbook (POH) Limitation Section by reducing the aft center of gravity (CG) limit to 166.0 inches at all weights on those airplanes not now having this aft CG limit. It has been determined that with flaps extended and loaded to certain CGs, directional control cannot be maintained during power on stalls. This action will assure airplane controllability during power on stall maneuvers.

EFFECTIVE DATE: July 26, 1983.
Compliance: Within the next 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Information pertaining to this AD is contained in the Rules Docket, Office of Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ACE-120A, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: The FAA has recently reevaluated the handing characteristics of the Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) airplanes. Findings during these evaluations established that loadings which resulted in the CG being at or approaching the aft limit and configured with the flaps extended, gear up or gear down, the airplane exhibited loss of yaw and roll controllability during power on stall maneuvers before a definite stall occurred or the pitch control reached the up stop. It was also demonstrated by flight tests that adequate roll and yaw control exists to enable the pilot to control the airplane through the stall or until the pitch control reaches the stop when the flaps are retracted and the airplane is loaded to a CG of 166.0 inches or forward of this point. Therefore, prohibiting flap extension and limiting the aft CG to 166.0 inches is necessary to preclude inadvertent loss of airplane control during power on stall maneuvers. The manufacturer is presently working on a modification kit that it anticipates will alleviate the restrictions being imposed on operations of the aircraft by this AD.

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, and AD is being issued requiring installation of a placard prohibiting the use of flaps and revision of the aft CG limit in the AFM or POH to 166.0 inches on Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) airplanes on those airplanes not now having the 166.0 aft CG limit. 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 exist 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, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper (Aerostar): Applies to Models PA-60-600 (Aerostar 600) (all S/Ns), PA-60-601 (Aerostar 601) (all S/Ns), PA-60-601P (Aerostar 601P) (all S/Ns) and PA-60-602P (Aerostar 602P) (all S/Ns), airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To assure airplane controllability during power on stalls, accomplish the following:

(a) Revise the Limitations Section of the applicable Airplane Flight Manual (AFM) or Pilot's Operating Handbook (POH) now installed in the airplane by changing the aft CG limit to 166.0 in those manuals not now incorporating this limit and insert the phrase "Use of Flaps Prohibited for All Operations" at the beginning of the Normal Operations Section and the performance data.

(b) Fabricate and install a placard using .10 inch minimum height characters in full view of the pilot which reads as follows:

"USE OF FLAPS PROHIBITED FOR ALL OPERATIONS. TAKEOFF AND LANDING DISTANCES WILL BE INCREASED WITHOUT FLAPS. REFER TO THE APPLICABLE AFM OR POH FOR PERFORMANCE INFORMATION AND APPROACH SPEEDS."

Operate the airplane in accordance with this limitation.

(c) Identify this AD by number in the applicable AFM or POH as the authority for the revisions required by this AD.

(d) The AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by him. The person accomplishing the AD must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(e) An equivalent method of compliance with this AD may be used, if approved by the Manager, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337.

This amendment becomes effective on July 26, 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); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 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

conditon in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on July 7, 1983.

John E. Shaw,

Acting Director.

[FR Doc. 83-19316 Filed 7-15-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 83-ACE-08]

Designation of Transition Area—Lake Winnebago, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Lake Winnebago, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Lake Winnebago, Missouri, Airport utilizing the Napoleon, Missouri, VORTAC as a navigational aid. This action will change the airport status from VFR to IFR. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Lake Winnebago, Missouri, Airport utilizing the Napoleon VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Lake Winnebago, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 19736 and 19737 of the **Federal Register** dated May 2, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lake Winnebago, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. September 29, 1983, by designating the following transition area:

Lake Winnebago, Missouri

That airspace extending upwards from 700 feet above the surface, within a 5-mile radius of the Lake Winnebago Airport (Latitude 34°48'51" N.; Longitude 94°18'37" W.), and within 3 miles each side of the Napoleon, Missouri VORTAC 207° radial extending from the airport to 6 miles northeast, excluding that portion that overlies Lee's Summit, Missouri, McComas Airport 700-foot transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

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

Issued in Kansas City, Missouri, on July 7, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-19315 Filed 7-15-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Reports—General Provisions; Adoption of Final Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("the Commission") has reviewed the data it currently receives for market surveillance from members of contract markets, futures commission merchants (FCMs), foreign brokers and individual traders. For a number of markets it has found that the growth in trading volume, open interest, and account size of individual traders enables the Commission to carry out its market surveillance program with fewer reports.

Accordingly, as part of its efforts to eliminate unnecessary reporting, the Commission has adopted amendments to its reporting regulations under the Commodity Exchange Act, as amended ("Act"), to raise position levels in certain commodities at which Forms 103 and 40 must be filed by traders and series '01 reports and Form 102s must be filed by members of contract markets, FCMs and foreign brokers.

The overall effect of this final agency action is to alleviate an unnecessary reporting burden on the public and to reduce the amount of paperwork processed by the Commission.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Associate Director, Market Surveillance Section, (202) 254-3310.

SUPPLEMENTARY INFORMATION: Reporting levels are set in various commodities to ensure that the Commission receives adequate information to carry out its market surveillance programs, which include detection and prevention of market congestion and price manipulation and enforcement of speculative limits.[1]

[1] The following commodities are those for which Commission speculative limits are in effect: wheat,

Generally, Parts 17 and 18 of the regulations require reports from members of contract markets, FCMs or foreign brokers and traders respectively when a trader holds a "reportable position," i.e., the open position held or controlled by the trader at the close of business in any one future of a commodity traded on any one contract market equal or exceed the quantities fixed by the Commission in § 15.03(a) of the regulations. See Rule 15.00(b), 17 CFR 15.00(b) (1982).

Members of contract markets, FCMs and foreign brokers who carry accounts in which there are "reportable positions" of traders are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background concerning their trading in commodity futures and, on call by the Commission, must submit a Form 103 showing positions and transactions in the commodity specified in the call.

The Commission has determined that the growth in trading volume, open interest, and position sizes of individual traders in certain markets enables the Commission to maintain effective surveillance of those markets with fewer reports from members of contract markets, FCMs foreign brokers and the trading public.[2] Accordingly, as part of its ongoing efforts to reduce reporting burdens, where possible, the Commission has determined that reporting levels should be raised for the following commodities: in gold from 100 contracts to 200 contracts; in sugar and GNMAs from 50 contracts to 100 contracts; in long-term U.S. Treasury notes, 90-day Treasury bills, Domestic Certificates of Deposit, Eurodollars and Heating Oil from 25 contracts to 50 contracts; in Long-term Treasury bonds from 50 contracts to 150 contracts; and in Foreign Currencies and certain Stock Index futures from 25 contracts to 100 contracts.[3]

The Regulatory Flexibility Act

As the Commission has not published a prior general notice of proposed rulemaking with respect to these amendments which are relief measures, the amendments are not "rules" as that term is defined in Section 3(a) of the Regulatory Flexibility Act ("RFA"), Pub. L. 96-354, 94 Stat. 1165 (5 U.S.C. 601(2)).[4]

Paperwork Reduction Act

The Paperwork Reduction Act of 1980, Pub. L. 96-511, 94 Stat. 2812 *et seq.* ("PRA"), imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by PRA. 44 U.S.C. 3501 *et seq.* OMB control number 3038-0009 has previously been assigned to those regulations within Parts 15, 17, and 18 which impose collection of information and recordkeeping requirements.[5]

List of Subjects in 17 CFR Part 15

Brokers, Commodity futures, Reporting and recordkeeping requirements.

In the consideration of the foregoing and pursuant to its authority under Sections 4g, 4i, 5(b) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. Sections 6(g), 6(i), 7(b) and 12a(5) as amended by the Futures Trading Act of 1982, Pub. L. 97-444, 96 Stat. 2294 (1983), the Commission is amending Part 15 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.03 is amended by revising paragraph (a) as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	200,000
Rye (bushels)	200,000
Barley (bushels)	200,000
Flaxseed (bushels)	200,000
Soybean Oil (contracts)	100
Soybean Meal (contracts)	100
Live Cattle (contracts)	100
Hogs (contracts)	50
Cotton (bales)	5,000
Sugar (contracts)	100
Copper (contracts)	100
Gold (contracts)	200
Silver Bullion (contracts)	250
Silver Coins (contracts)	50
#2 Heating Oil (contracts)	50
Long-term U.S. Treasury Bonds (contracts)	150
GNMA (contracts)	100
Three-month (13-week) U.S. Treasury Bills (contracts)	50
Long-term U.S. Treasury Notes (contracts)	50
Domestic Certificates of Deposit (contracts)	50
Three-month Eurodollar Time Deposit Rates (contracts)	50
Foreign Currencies (contracts)	100
Standard and Poor's 500 Stock Price Index (contracts)	100
New York Stock Exchange Composite Index (contracts)	100
All Other Commodities (contracts)	25

* * * * *

The foregoing amendments to Part 15 to raise reporting levels in certain commodities are adopted effective July 15, 1983. The Commission finds that the foregoing action relieves a burden heretofore imposed and therefore, that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued in Washington, D.C., on July 12, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-19345 Filed 7-15-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13380, File No. S7-920]

Valuation of Debt Instruments and Computation of Current Price Per Share by Certain Open-End Investment Companies (Money Market Funds)

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting a rule regarding the valuation of debt instruments, the calculation of current net asset value per share and the computation of current price per share by certain registered open-end investment companies, commonly referred to as "money market funds." The rule premits such investment companies, subject to enumerated conditions, either: (1) To value portfolio securities by use of the amortized cost valuation method; or (2) to compute current price per share by rounding the net asset value per share to the nearest one cent, based on a share

---

grains (including oats, barley and flaxseed), corn, soybeans, rye, eggs, cotton, and potatoes. 17 CFR Part 150 (1982).

[2] In one commodity, silver, however, the Commission has determined that more reports may be necessary. In a separate **Federal Register** release, the Commission is proposing that reporting levels in silver be reduced.

[3] The Commission finds that its action to raise reporting levels in the above commodities relieves an existing burden and that the notice and other public procedures called for by 5 U.S.C. 553 are not required. 5 U.S.C. 553(b) (1976). The Commission, therefore, is adopting the amendments to Rule 15.03(a) effective July 15, 1983.

[4] That section defines the term "rules" as "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to Section 553(b) of this title. . ."

[5] See 44 U.S.C. 3502(4) (Supl V. 1981) defining the term "collection of information."

value of one dollar. Previously, the Commission granted individual orders of exemption to permit use of those valuation or pricing methods. The rule obviates the need for most, if not all, of such applications.

EFFECTIVE DATE: July 18, 1983.

FOR FURTHER INFORMATION CONTACT: H. R. Hallock, Jr., Special Counsel (202-272-3030), or Gene A. Gohlke, Chief Financial Analyst (202-272-2024), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting rule 2a-7 [17 CFR 270.2a-7] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 *et seq.*] to permit, subject to specified conditions, certain open-end investment companies, known as "money market funds," to compute their current price per share for purposes of distribution, redemption and repurchase by using either: (1) The "amortized cost" method of valuation to value their portfolio instruments for purposes of calculating their current net asset value per share; or (2) the "penny-rounding" method of computing their current price per share.

Under the amortized cost method of valuation, money market funds may calculate their current net asset value for use in computing the current price of their redeemable securities by valuing all portfolio securities and assets, regardless of whether market quotations are readily available, at the acquisition cost as adjusted for amortization of premium or accretion of discount rather than at current market value as would be required by rule 2a-4 under the Act. [17 CFR 270.2a-4].

Under the penny-rounding method of computation, money market funds calculate their current net asset value in conformance with rule 2a-4 by valuing portfolio securities for which market quotations are readily available at current market value, and other securities and assets at fair value as determined in good faith by the board of directors. However, they may then compute the current price of their redeemable securities by rounding the net asset value per share to the nearest one cent on a share value of one dollar.

Rule 2a-7 provides that in order to use either of the above valuation or pricing methods a money market fund must comply with certain conditions. Those conditions basically: (1) Limit the types of investments that the money market fund can make to short-term, high quality debt instruments; (2) impose on the board of directors (trustees in the case of a trust; hereinafter referred to as "board of directors" or "board") of the money market fund a special obligation to ensure that a stable price per share is maintained; and (3) require that the board of directors of the money market fund, in good faith, determine that it is in the best interests of the fund and its shareholders to maintain a stable net asset value or price per share and that the money market fund will discontinue its use of either method if such method ceases to reflect fairly the market-based net asset value per share. In addition, a money market fund using the amortized cost method of valuation must monitor the deviation between the price of its shares computed from a net asset value per share calculated using amortized cost values for its portfolio instruments and the net asset value of such shares calculated using values for portfolio instruments based upon current market factors. If such deviation exceeds ½ of one percent of the price per share or if the amount of deviation may result in material dilution or other unfair results to shareholders, the rule imposes specific obligations on the board of directors to respond to the situation. Likewise, a money market fund using the penny-rounding method to compute its price per share may have to monitor in a similar fashion the valuation of those portfolio instruments with remaining maturities of sixty days or less [1] that are valued at amortized cost in order to assess the fairness of that valuation method.

The reasons for proposing rule 2a-7 and the administrative history of the rule are discussed thoroughly in Investment Company Act Release No. 12206 (February 1, 1982) ("Release 12206"), 47 FR 5428 (February 5, 1982). In brief, the rule generally codifies the standards that were developed for granting the applications filed by money market funds for exemption from the pricing and valuation provisions of the Act, with a slight expansion of the types of instruments permitted for purchase. Persons interested in a more detailed discussion of the genesis of the rule should refer to that release.

Rule 2a-7 is designed to obviate the need for individual money market funds to file applications for exemptive orders to permit the use of either penny-rounding or amortized cost methods. In addition, the Commission recognizes that money market funds with existing exemptive orders may wish to rely on the rule rather than their individual orders. The Commission has no objection to money market funds ceasing to rely on their individual exemptive orders and using instead rule 2a-7 as the basis for their pricing or valuation method, provided that the board of directors of any such money market fund approves the change and the fund makes any necessary disclosure to shareholders. In addition, rule 2a-7 is designed to clarify the obligations of money market funds and their boards of directors when using either the amortized cost or penny-rounding method. As stated in the release proposing rule 2a-7, the rule is not intended to expand the responsibilities and liabilities imposed upon directors beyond those imposed under the exemptive orders. Guidance provided by this release should be considered generally applicable to a money market fund operating pursuant to an exemptive order or pursuant to rule 2a-7.

In response to its requests for comments, the Commission received 21 letters. The commentators universally agreed that proposed rule 2a-7 should be adopted, with certain amendments. A number of commentators, however, expressed strong objections to some of the positions taken by the Commission in Release 12206. Those objections and the Commission's response are discussed in detail below. As a result of its consideration of the comments, the Commission has determined to adopt rule 2a-7, subject to several modifications of the proposal, and to issue this release, which will serve, rather than Release 12206, as the operative interpretive vehicle.

Discussion

Under rule 2a-7, investment companies that have investment portfolios consisting entirely of U.S. dollar-denominated short-term debt obligations ("money market funds") [2]

[1] *See* footnote 44, *infra*.

[2] The Commission received a comment that the rule should be amended to include this definition of a money market fund. The description has not been added as a definition under the rule because it is not an exclusive definition of a money market fund. The rule permits only an investment company that has the requisite portfolio (e.g., entirely U.S. dollar-denominated short-term debt obligations) to reply upon it, provided that all the conditions of the rule are satisfied. The Division of Investment Management has recently taken the position that it would not object if a money market fund utilizing an amortized cost exemptive order invests, within certain limitations, in shares or units of other investment companies which invest primarily in high quality, short-term municipal instruments and which determine their net asset value based on the amortized cost or penny-rounding methods in reliance on Commission exemptive orders or proposed rule 2a-7 under the Act when it is adopted. *See* letter from Gerald Osheroff, Associate Director, Division of Investment Management to John J. Scott, Esquire, on behalf of The Benchmark Tax-Exempt Fund, dated June 28, 1983.

may use either the penny-rounding pricing method or the amortized cost valuation method for purposes of computing their price per share on their net asset value per share, respectively, provided that they comply with the conditions enumerated in the rule. Those conditions are designed to ensure that any money market fund that adopts one of the above procedures in an effort to maintain a stable price per share will be able to maintain that stable price.

The conditions contained in the rule, as well as those conditions found in individual exemptive orders, provide for a special system of safeguards to protect the fund. The responsibility for designing and effectuating that system is placed on the board of directors. As a part of that system of safeguards, the directors have undertaken the specific responsibility of monitoring the market value of the portfolio, in the case of funds using amortized cost valuation, and have represented that the fund will limit investments to those instruments which the board deems to meet certain criteria. Some commentators opined that such responsibilities should be placed on the investment adviser rather than the board of directors. While the Commission realizes that, as a practical matter, board of directors may lack technical expertise and must rely on the investment adviser to provide factual information and advice, it believes that the final responsibility for the fund's operations should remain with the board of directors. The Commission bases its determination on the fact that the board is traditionally the fund's ultimate authority, as well as the possibility of inherent conflicts between the interests of the investment adviser and those of the funds. Accordingly, the rule as adopted continues to place ultimate responsibility for fulfilling the conditions of the exemptive relief on the board of directors.

In stating that certain functions are the responsibility of the board of directors, the rule does not require that the board personally become involved in the day-to-day operations of the fund, nor does the rule require the board to be an insurer of the fund or the fund's investment adviser. The Commission sought in Release 12206 to clarify, through examples, that the board could delegate certain day-to-day functions to the investment adviser and still be in compliance with the rule. However, comments received in response to the rule proposal indicated apparent confusion by some parties who were concerned that the rule would require the board personally to carry out the day-to-day operations of the fund. The Commission recognizes that such a requirement would be inefficient and unrealistic. Therefore, in an effort to clarify its position, the Commission has modified somewhat the language of the rule, as discussed hereinafter.

The rule, like the prior exemptive orders, specifically states that the board shall be responsible for certain functions, such as monitoring the value of the portfolio and determining the quality of its instruments. While the board retains the final responsibility for the operations of the fund and the specific procedures required by the rule, the rule does not preclude the board from delegating duties and functions (to be carried out under its supervision) to the investment adviser. This release set forth in detail some methods by which the board may delegate certain responsibilities and still be deemed to be in compliance with the rule. These examples are not intended to be the exclusive method of compliance. However, they are meant to set forth the Commission's view that a delegation will not be deemed satisfactory where the board's only participation is an approval after the fact. The Commission believes that, at a minimum, the board should have knowledge in advance of how the functions will be performed by the investment adviser; the board should assure itself that such methods are reasonable and provide any guidance necessary; and finally, the board should review periodically the investment adviser's performance.

The rule also provides, under both methods, for the computation of a share price that will represent fairly the current net asset value per share of the investment company, thus reducing any possibility of dilution of shareholders' interests or other unfair results. [3]

Rule 2a–7 provides that money market funds satisfying the necessary conditions may use either the penny-rounding or amortized cost method. In Release 12206 the Commission stated that while a fund which had elected one of the methods was not foreclosed from switching to another method,[4] the rule would not permit a fund to use both methods at the same time, i.e., the amortized cost valuation method to calculate its net asset value per share and rounding of that net asset value to the nearest one cent of a dollar when computing its price per share.[5]

The Commission received a substantial number of comments expressing the view that money market funds using the amortized cost valuation method should be permitted to penny-round when computing their price per share. These commentators argued that without the ability to penny-round, funds using the amortized cost valuation method would be disadvantaged, and that the ½ of 1 percent limitation on the deviation of the price away from the market-based net asset value per share would limit the amount of rounding to the equivalent of that used by funds under the penny-rounding method. After considering these comments, the Commission has determined that it is appropriate to permit funds using the amortized cost valuation method to round to the extent permitted to funds opting to use the penny-rounding method, i.e., the deviation between the price per share and the market based net asset value per share may not exceed ½ of 1 percent.

While the Commission is proposing to permit a fund using the amortized cost valuation method to round its net asset value per share beyond the extent considered material as set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release 9786"), 42 FR 28999 (June 7, 1977) [6] in computing its price per share, it emphasizes the responsibilities of the board when such a method is used. A basic premise justifying the use of the amortized cost valuation method is the fact that securities held until maturity will eventually yield a value equivalent to the amortized cost value, regardless of the current disparity between amortized cost value and market value. Thus, the Commission is willing to permit funds to use amortized cost valuation so long as the disparity between the amortized cost value and current market value remains minimal. Funds using the amortized cost valuation method may need to use penny-rounding in computing their price per share when a gain or a loss in the value of their portfolio, which was not offset against earnings, is recognized. Where the gain or loss has been recognized, there is no longer merely a potential for a deviation between the value assigned by the fund for the securities sold and that actually realized by the fund. The Commission does not wish to define the premissible

[3] If shares are sold based on a net asset value which turns out to be either understated or overstated in comparison to the amount at which portfolio investments could have been sold, then either the interests or existing shareholders or new investors will have been diluted.

[4] Prior to any such switch, the board of directors should approve such action and any necessary disclosure should be made to shareholders.

[5] *See* footnote 5 of Release 12206.

[6] Release 9786 sets the amount of less than 1/10 of one cent on a share value of one dollar as the benchmark for materiality

amount of deviation. However, to the extent a fund has realized gains or losses that cause the fund's price per share to deviate from the amortized cost net asset value per share, the board must be particularly careful to ensure that the fund can maintain a stable price per share. The fact that a fund may penny-round while utilizing amortized-cost valuation does not, of course, diminish the board's responsibility to monitor the market-based net asset value, nor does it increase the permissible deviation between share price and market-based asset value.

Permissible Portfolio Investments

The rule, like the previously granted exemptive orders, is designed to limit the permissible portfolio investments of a money market fund seeking to use either penny-rounding or the amortized cost valuation method to maintain a stable price per share to those instruments that have a low level of volatility [7] and thus will provide a greater assurance that the money market fund will continue to be able to maintain a stable price per share that fairly reflects the current net asset value per share of the fund. Accordingly, money market funds relying on the rule may purchase only those portfolio instruments which meet the quality and maturity requirements of the rule.[8] The rule, however, would not prohibit a money market fund from holding cash reserves. It should be noted that the rule does not speak to the acquisition or valuation of puts or stand-by commitments by a money market fund wishing to use the subject valuation or pricing methods.[9] The Commission has granted exemptive orders to permit the acquisition of puts, but thus far, only under limited circumstances and subject to certain conditions.[10] Accordingly, a fund requiring exemptive relief in order to acquire puts or standby commitments must still seek an individual exemptive order. If in the future the issues concerning the acquisition of puts are resolved, the rule may be amended.

Maturity of Portfolio Instruments

A money market fund may rely on the rule only if its entire investment portfolio consists of instruments with a remaining maturity of one year or less. As prescribed in the rule, which is generally a codification of positions taken by the Commission regarding the conditions contained in the exemptive orders, the maturity of an instrument generally is deemed to be its stated maturity, with a special exception provided for certain variable and floating rate paper. Accordingly, an instrument is deemed to satisfy the one year or less maturity requirement for purposes of the rule if, on the date of purchase [11] by the money market fund: (i) The instrument, regardless of the length of maturity when originally issued, currently has no more than 365 days remaining until the principal amount owed is due to be paid, or, in the case of an instrument called for redemption, until the date on which the redemption payments must be paid, [12] or when originally issued, the principal amount due was to be paid in not more than 375 days [13]; (ii) where the instrument has a variable rate of interest [14] and is issued or guaranteed by the United States government or any agency thereof, it has no more than 365 days remaining until the next readjustment or renegotiation of the interest rate to be paid, regardless of the stated maturity of the instrument, and the board of directors has determined that it is reasonable to expect [15] that when the rate is readjusted it will cause the instrument to have a current market value which approximates its par value; [16] (iii) the

[7] There are basically two types of risk which cause fluctuations in the value of money market fund portfolio instruments: the market risk, which primarily results from fluctuations in the prevailing interest rate, and the credit risk. In general, instruments with shorter periods remaining until maturity and which are of higher quality have reduced market and credit risks and thus tend to fluctuate less in value over time than instruments with longer remaining maturities or of lesser quality.

[8] The applications for exemptive relief have routinely set forth the specific types and quality of instruments in which money market funds could invest. The instruments consisted exclusively of debt obligations, including such instruments as treasury bills and notes and other government issued or guaranteed debt securities, certificates of deposit and time deposits from domestic banks and thrift institutions and from foreign banks, bankers' acceptances of domestic and foreign banks, commercial paper, corporate bonds and notes and repurchase agreements on other debt obligations. While the rule does not set out the various types of debt instruments in which a money market fund relying on the rule may invest, the rule does require that all portfolio instruments mature in one year or less and be of high quality. The types of instruments a particular fund may invest in are, of course, further limited by its choice of investment policy. *See also*, footnote 2, *supra*.

[9] The Commission considers the terms puts and standby commitments to encompass any agreement by a third party to purchase, at some future date and at a prescribed price, a security issued by another party. Hence, instruments which include a demand feature where the demand obligation runs to a third party will be considered to be subject to a put. Compare the investments made by Daily Tax Free Income Fund, Inc. (File No. 2-78513), in participation interests issued by banks in industrial development bonds, which were regarded as instruments having a demand feature running to the issuer and not instruments subject to puts, and a letter to the Honorable Lee Sherman Dreyfus, Governor of Wisconsin, dated October 22, 1982 (publicly available March 3, 1983), discussing the applicability of proposed rule 2a-7 to proposed bonds.

[10] *See, e.g.*, Investment Company Act Release No. 11867 (July 21, 1981). The Commission intends to propose a rule in the near future which will include, among other measures, a codification of orders granted under Section 12[d][3] [15 U.S.C. 80a-12[d][3]] to permit the acquisition of puts from brokers or dealers for limited purposes.

[11] The date of purchase is regarded as the date on which the fund's interest in the instrument is subject to market action. Thus, for securities purchased under normal settlement procedures, the length of maturity would be calculated starting on the trade date. For instruments such as "when issued" securities (securities purchased for delivery beyond the normal settlement date), if the commitment to purchase the instrument includes either a set price or yield, then the maturity will be calculated based upon the commitment date. *See also* Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979) for a discussion of other issues raised by the purchase of instruments that subject the fund to risk prior to the actual inclusion of the instrument in the fund's portfolio.

[12] This portion of the definition of "one year" was expended from that contained in the proposed rule in response to comments received by the Commission. Under the rule an instrument would be deemed to have a maturity of one year or less if either that particular instrument or the entire issue was to be redeemed within the year period. When determining whether an instrument called for redemption presents minimal credit risks to the fund [conditons (a) (2) (iv) and (a) (3) (iii)] the board should consider the risk that the obligation will not be honored on the redemption date.

[13] This part of the definiton has been extended beyond the usual definition of one year (365 days) to encompass securities, particularly government securities such as project notes, which are denominated as and intended to be "one year" notes but which occasionally are issued with maturities slightly longer than 365 days. (*See* Investment Company Act Release No. 11879 (March 11, 1981).) This part of the definition is not meant to encompass securities which were originally issued and intended to be longer than "one year" instruments. Those instruments could be purchased by a money market fund relying on this rule only if they have 365 or fewer days remaining until maturity.

[14] Variable rate instruments are those instruments whose terms provide for automatic establishment of a new interest rate on set dates.

[15] The language of this requirement was modified from that originally proposed to clarify that the rule requires only that the board make a reasonable evaluation of the instrument, not be insurers of the instrument.

[16] This definition, which goes beyond a codification of orders issued, was expanded based upon the Commission's understanding that the volatility of such instruments would not be greater than the volatility of fixed interest rate instruments having a maturity equal to the readjustment period of the U.S. government guaranteed variable rate notes. However, the Commission's position is based entirely upon experience with Small Business Administration guaranteed debentures ("SBA notes") which are the only instruments currently falling within this category so far as the Commission is aware. Accordingly, the board of directors of a money market fund considering investment in any such instrument other than a SBA note should, as a part of its overall duty to supervise the operations of the fund to ensure stability, determine that it can expect the volatility of such notes not to differ materially from the volatility of fixed rate notes of the same quality. Moreover, the Commission will consider amendment of this or any other provision of the rule if market experience indicates that it is inappropriate to the rule's overall purposes.

instrument (a) has a demand feature which allows the fund unconditionally to obtain the amount due from the issuer[17] upon notice of seven days or less,[18] (b) has either a floating rate of interest[19] or a variable rate of interest that is readjusted no less frequently than once per year,[20] where, in the case of a variable rate instrument, the board of directors has determined that it is reasonable to expect that whenever a new rate is established it will cause the instrument to have a current market value which approximates its par value and in the case of a floating rate instrument the board has determined that it can reasonably conclude that such floating rate feature will operate in such a way that the market value of such instrument will always approximate its par value,[21] and (c) will be reevaluated by the board at least quarterly to ensure that the instrument is of high quality;[22] or (iv) where the instrument is a repurchase agreement or an agreement upon which portfolio instruments are lent ("portfolio instrument lending agreement")[23] regardless of the maturity of the securities serving as collateral for the agreement, the repurchase is scheduled to occur or the loaned securities are scheduled to be returned within 365 days or less.[24]

The rule places the ultimate responsibility for the quarterly quality determinations and the determinations about the readjustment of the interest rate on the board of directors. However, the day to day functions involved in making such determinations may be delegated by the board to the investment adviser, so long as the delegation is done in a reasonable fashion, meeting the standards for reasonable board oversight articulated elsewhere in this release.[25]

Maturity of the Portfolio

In addition to requirements regarding the maturity of individual portfolio investments, the rule imposes restrictions on the dollar-weighted average maturity of the entire portfolio. Paragraphs (a)(2)(iii) and (a)(3)(ii) of the rule provide that a money market fund must maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. This provision imposes an obligation on the directors of the fund to ascertain that the fund is maintaining an average portfolio maturity that, given the then current market conditions, will permit it to maintain a stable price or net asset value per share. During periods of higher volatility in the market, the board of directors should be aware of the greater difficulty in maintaining a stable price or net asset value per share and should take steps to ensure that they are providing adequate oversight to the money market fund. In addition, the rule provides that in no event shall the fund maintain a dollar-weighted average portfolio maturity that exceeds 120 days. Should the disposition of a portfolio instrument or some market action cause the dollar-weighted average portfolio maturity to exceed 120 days, the board of directors is obligated to cause the fund to invest its available cash in a way that will reduce its dollar-weighted averaged portfolio maturity to 120 days or less as soon as reasonably practicable.

For purposes of computing the average portfolio maturity, instruments generally will be deemed to have a maturity equal to the period remaining until the date of maturity of the instrument noted on its face. Instruments which have been called for redemption are deemed to have a maturity equal to the period remaining until the redemption payment is to be made. Certain variable or floating interest rate instruments, which meet the conditions enumerated in the prior section of this release and are deemed to have a remaining maturity of one year or less for purposes of the rule,[26] may be treated as having a maturity other than that noted on the face of the instrument. Any such variable rate instruments with demand features may be deemed to have a maturity equal to the longer of the period remaining until the next rate readjustment or the period remaining until the principal amount can be recovered through demand.[27] Any such floating interest rate instruments with a demand feature may be treated as having a maturity equal to the period remaining until the principal amount due on the instrument can be recovered through demand.[28] Any such variable

---

[17] In theory, the existence of a demand feature alone, i.e., with no variable or floating rate feature, should be sufficient to enable a fund to maintain a stable net asset value per share because the holder could receive the principal amount of the instrument in a short period of time regardless of market and creditworthiness changes. However, the Commission has insufficient evidence that (1) funds will exercise such a demand feature whenever interest rates increase or the creditworthiness of the issuer is reduced and (2) there is a market for such instruments and even if there is, whether it always evaluates the instrument at a price approximating its par value. The demand feature, however, must run to the issuer. *See* footnote 9, *supra*.

[18] A demand note subject to a notice period of five business days would be deemed to satisfy this provision of the rule even if intervening weekends and holidays could cause the notice period, under some circumstances, to run more than seven calendar days.

[19] Floating rate instruments are those instruments whose terms provide for automatic adjustments of their interest rates whenever some other specified interest rate changes, where such specified interest rate is changed as market conditions change, rather than upon some periodic basis.

[20] *See* application of Municipal Fund for Temporary Investment, (File No. 812-4970) filed September 15, 1981, ordered March 5, 1982, (Investment Company Act Release No. 12278); and letter from Gerald Osheroff, Associate Director, Division of Investment Management to Joel T. Matcovsky, Merrill Lynch Asset Management, Inc., dated December 10, 1981.

[21] By this requirement, the Commission does not expect the board to be an insurer of the instrument. However, the provision requires that the instrument be evaluated as to whether an expectation of reaching the result set forth in the rule is reasonable.

[22] If the instrument were ever deemed to be of less than high quality, the fund either would have to sell the instrument or exercise the demand feature, whichever were more beneficial to the fund.

[23] Repurchase agreements may be regarded as securities issued by the entity promising to repurchase the underlying security at a later date (*See* Securities Act Release No. 6351 (September 25, 1981), 46 FR 48637 (October 2, 1981) and Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979).) Therefore, a money market fund is generally prohibited by the provisions of section 12(d)(3) of the Act [15 U.S.C. 80a-12(d)(3)] from acquiring a repurchase agreement issued by a broker or dealer unless it structures the repurchase arrangement in accordance with the manner described in the Investment Company Act release, which is designed to ensure that the investment company's investment, including accrued interest earned, is fully collateralized. *See* however, footnote 31, *infra*. The same analysis may apply to portfolio instrument lending agreements.

[24] Repurchase agreements and portfolio instrument lending agreements which have no specified date, but rather are subject to demand, have generally been regarded as having a maturity equal to the notice period required. The rule as adopted reflects this treatment.

[25] Money market funds investing in, or seeking to invest in, an instrument with a maturity not falling within one of the above-described categories (i) through (iv) would not be able to rely upon the rule to permit the use of either penny-rounding or the amortized cost valuation method. Thus, funds wishing to invest in other types of instruments will have to file individual applications for exemptive relief.

[26] *See* the discussion on Maturity of Portfolio Instruments, which sets forth the conditions that must be fulfilled in order for the maturity to be deemed a period other than that remaining until the maturity date noted on the face of the instrument.

[27] Because certain of such variable rate demand instruments may not be readily marketable, the demand notice period may be the shortest period during which the holder may practically expect to bear the market risk associated with the instrument. However, because the Commission believes that the demand features of such instruments are seldom used except for liquidity purposes, holders will usually be exposed to market risk during the period remaining to the date of the next interest rate adjustment.

[28] If the board determined that a demand instrument, either floating or variable rate, were no longer of high quality, the fund could not base its maturity on the period remaining until recalculation of the interest rate or on the demand period, but, as noted at footnote 22 *supra*, would have to exercise the demand feature or sell the instrument, whichever were more beneficial to the fund.

rate instruments (issued or guaranteed by the U.S. government or an agency thereof) that do not have a demand feature may be treated as having a maturity equal to the period remaining until the next calculation of the interest rate rather than the period remaining until the principal amount is due. Repurchase agreements and portfolio instrument lending agreements shall be treated as having a maturity equal to the period remaining until the repurchase is scheduled to occur or the loaned-instruments are scheduled to be returned. When no date is specified but the agreements are subject to demand, the maturity shall be based upon the notice period required.[29] Finally, although variable rate instruments with neither a United States government or government agency guarantee nor a demand feature may be purchased only if the period until the maturity date set on the face of the instrument is one year or less, the rule will permit, for purposes of determining the dollar-weighted average maturity of the entire portfolio under the rule, such instruments to be treated as having a maturity equal to the period remaining until the next readjustment of the interest rate, provided that the board determines that it is reasonable to expect that the new rate will cause the instrument to have a current market rate which approximates its par value.[30]

Quality of Portfolio Instruments

In addition to the above limitations on the maturity of the portfolio of a money market fund seeking to rely on the rule, paragraphs (a)(2)(iv) and (a)(3)(iii) of the rule contain conditions relating to the quality of all portfolio instruments. The rule provides that each portfolio instrument must be denominated in United States dollars and must also be an instrument which: (1) The board had determined presents minimal credit risks to the fund; and (2) is rated "high quality" by a major rating service or, if the security is unrated, is determined by the board to be of comparable quality.[31]

The Commission received conflicting comments regarding the quality standards that should be imposed under the rule. Some commentators believed that the rule should rely totally upon fund management to judge the quality of instruments and recommended deleting the requirement that the instruments, if rated by a third party, receive a high quality rating. Other commentators suggested that the requirement that the board find that the instrument presents minimal credit risks is superfluous and that the rule should require only a finding of high quality. Regardless of what standard was imposed, a substantial number of commentators believed that the board should not be involved in the quality determination at all, and that the determination should be made by the investment adviser.

The Commission believes that both tests are significant and, therefore, has retained both in the rule. The requirement that a security have a high quality rating provides protection by ensuring input into the quality determination by an outside source. However, the mere fact that an instrument has or would receive a high quality rating may not be sufficient to ensure stability. The Commission believes that the instrument must be evaluated for the credit risk that it presents to the particular fund at that time in light of the risks attendant to the use of amortized cost valuation or penny-rounding. Moreover, the board may look at some aspects when evaluating the risk of an investment that would not be considered by the rating services.

As stated earlier, the Commission believes that the ultimate responsibility for the quality of portfolio instruments should be placed on the board of directors, who have undertaken special responsibilities designed to ensure stability of the fund. However, as discussed earlier, although the rule provides that the fund will invest only in those instruments which the board has determined to be of sufficient quality, the Commission will not object to the delegation of the day-to-day function of determining quality, provided that the board retains sufficient oversight. An example of acceptable delegation would be for the board to set forth a list of "approved instruments" in which the fund could invest, such list including only those instruments which the board had evaluated and determined presented minimal credit risks.[32] The board could also approve guidelines for the investment adviser regarding what factors would be necessary in order to deem a particular instrument as presenting minimal credit risk. The investment adviser would then evaluate the particular instruments proposed for investment and make only conforming investments. In either case, on a periodic basis the board should secure from the investment adviser and review both a listing of all instruments acquired and a representation that the fund had invested in only acceptable instruments. The board, of course, could revise the list of approved instruments or the investment factors to be used by the investment adviser.

[29] Although repurchase agreements ("repos") will be treated as having a maturity based upon the length of the agreement and not the maturity of the instruments which serve as collateral, the board of directors should be aware of the risks involved with the purchase of repos that are collateralized by instruments with remaining maturities of greater than one year. If the issuer of the repo should default, the instrument serving as collateral would become a part of the money market fund's portfolio. Instruments with longer maturities generally have greater volatility and thus would expose the fund to a greater risk of an unstable price per share. Moreover, the instrument would not satisfy the provisions defining permissible portfolio instruments. Therefore, the Commission would take the position that such a security should not become a part of the portfolio and must be disposed of as soon as possible. Of course, if the default is due to bankruptcy, the fund may be unable to perfect its possession of the collateral. (*See* footnote 31, *infra.*) The same analysis would apply to transactions where the money market fund loans portfolio instruments and instruments having maturities of greater than one year are received as collateral for the loan. If the borrower defaults, the fund would be left with instruments which would not meet the provisions of the rule. Under the same analysis, these instruments should not become a part of the portfolio and must be disposed of as soon as possible.

[30] This provision reflects a slight expansion of the relief given through exemptive order, which required periods of renegotiation to be 30 days or less and the remaining maturity of the instrument to be 180 days or less. [Investment Company Act Release No. 11679 (March 11, 1981).]

[31] With regard to investments in repurchase agreements ("repos"), the Commission believes that in determining whether the investment meets the quality provisions of the rule, the board must look both to the quality of the issuer of the promise to repurchase as well as the quality of the underlying collateral. More specifically, in determining whether the repo presents minimal credit risks, the fund must assess the credit risk involved in getting payment in a timely fashion. That assessment must include an evaluation of the issuer's creditworthiness as well as the creditworthiness of the collateral, since the financial position of the issuer may affect the fund's ability to obtain the collateral. Given the uncertain status of repos under the Bankruptcy Code, mutual funds face certain risks if they invest in repos issued by a party that subsequently initiates bankruptcy proceedings. *See, e.g., In re Lambard-Wall, Inc.*, Reorganization Case No. 82 Bkcy 11556 (EJR) (Bankr. S.D.N.Y., filed Aug. 12, 1982). Investment Company Act Release No. 13005 (February 2, 1983), 48 FR 5894 (February 9, 1983) sets forth specific suggestions concerning factors that may assist funds in evaluating the creditworthiness of repo issuers. Although the board must look to both the issuer of the repo and the underlying collateral when determining minimal credit risk, the Commission believes that in making a "high quality determination," it is appropriate for the board to look solely to the quality of the underlying collateral.

The Commission regards only that portion of the agreement which is fully collateralized to be the "repurchase agreement" subject to the treatment discussed above. Any agreement or portion of an agreement which is not fully collateralized would be regarded as an unsecured loan. As such, the loan itself would be required to meet the quality requirements set forth in the rule, both in terms of presenting minimal credit risks and high quality rating.

[32] The Commission envisions that the investment adviser would provide the board with the data to evaluate the instruments and make its assessment.

Again, these examples are not meant to set the exclusive methods by which the board could fulfill its responsibilities. However, they are meant to provide guidance as to what the Commission would consider adequate oversight. Generally, adequate oversight would involve the board satisfying itself in advance that the methods to be used by the adviser in fulfilling the functions are correct, and then reviewing the adviser's actions. However, the Commission is of the view that the board would not be complying with the requirement to review the quality of the fund's portfolio instruments if it merely approved the transactions in which the fund engaged, after the fact.

In order to fulfill the rule's requirements that the instruments be rated "high quality," the instruments, if rated, must have been given a rating by a major financial rating service such as Standard & Poor's Corporation, Moody's Investors Services or Fitch Investors Service [33] that would be considered high quality.[34] Even if the board of directors believes that the rating service incorrectly rated the instrument too low or that because of changed circumstances the instrument is now of higher quality, this provision of the rule precludes a money market fund which is relying on the rule from investing in any rated instrument which does not have a "high quality" rating.[35]

If an instrument has received no rating from a major rating service, then, assuming that the board has found that it presents minimal credit risks to the fund, it would be a permissible investment under the rule, provided that the board also finds that the instrument is of "comparable quality" to that of instruments that are rated "high quality".[36]

In meeting the rule's requirement that the fund invest only in those securities which the board determines to meet certain quality standards, the board may delegate to the investment adviser the responsibility for investigating and judging the creditworthiness of particular instruments. However, like the procedures discussed above, the board must exercise sufficient oversight if it wishes to delegate this function to the investment adviser. Again, sufficient oversight would involve the board setting guidelines, its approval of the adviser's methods in advance and routine surveillance of the adviser's performance.

Liquidity of the Portfolio

While the rule does not limit a money market fund's portfolio investments solely to negotiable and marketable instruments, money market funds, like all open-end management investment companies, are subject to limitations on restricted or illiquid securities. In Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) ("Release 5847"), the Commission set forth its view that, because an open-end company has an obligation to value its portfolio correctly and to satisfy all redemption requests within the statutorily prescribed period, it must limit its acquisition of restricted securities and other securities not having readily available market quotations to the extent necessary to ensure that it can fulfill its obligations. In addition, the Commission took the position that, in light of those obligations, in no event should the percentage of such securities exceed ten percent of the company's net assets. Money market funds relying on the rule, like any other open-end management company, must limit their portfolio investments in illiquid instruments [37] to not more than ten percent of their net assets.[38] However, because of the nature of money market funds, the difficulties that could arise in conjunction with the purchase of illiquid instruments by such funds might be even greater than for other types of open-end management investment companies. Therefore, the board of directors of a money market fund relying on the rule may have a fiduciary obligation to limit further the acquisition of illiquid portfolio investments.

While the Act requires only that an investment company make payment of the proceeds of redemption within seven days,[39] most money market funds promise investors that they will receive proceeds much sooner, often on the same day that the request for redemption is received by the fund. In addition, most money market funds, because they are primarily vehicles for short-term investments, experience a greater and perhaps less predictable volume of redemption transactions than do other investment companies. Thus, a money market fund must have sufficient liquidity to meet redemption requests on a more immediate basis. By purchasing or otherwise acquiring illiquid instruments, a money market fund exposes itself to a risk that it will be unable to satisfy redemption requests promptly.

In addition, as set forth in Release 5847, management of the investment company's portfolio could also be

[33] Standard & Poor's Corporation ("Standard & Poor's"), Moody's Investors Services ("Moody's") and Fitch Investors Service ("Fitch") are set forth as examples of rating services that are considered by the Commission to meet the definition of a major financial rating service. The Commission does not intend to prescribe that the ratings must come only from one of these three services.

[34] Using bonds as an example, Moody's defines "high quality" for bonds to be those instruments which receive an Aaa or Aa rating. Similarly, the Commission would consider bonds rated AAA or AA by Standard & Poor's or by Fitch to be high quality. Therefore, a money market fund seeking to rely on this rule could invest only in bonds which were rated AA (Aa) or better. Commercial paper receiving one of the two top ratings [Prime-1 or 2, A-1 or 2, or Fitch-1 or 2] also would be considered high quality. The rule requires only that an instrument receive a "high quality" rating from one major financial rating service. In a case where an instrument received different ratings from different services, the instrument would be an acceptable investment so long as at least one rating was a high quality rating and provided that the board found that the instrument presented minimal credit risks.

[35] However, a rated instrument that is subject to some external agreement (such as a letter of credit from a bank), where such external agreement was not considered when the instrument was given its rating, for purposes of this rule, will be considered an unrated security. The Commission believes that agreements such as letters of credit can significantly affect the credit risk associated with an instrument. Therefore, since the security may have significant characteristics which are not included in the rating, it is appropriate to consider a security subject to an external agreement, as an unrated security, and thus permit the board to determine whether the instrument, taking into account the external agreement, is of comparable quality.

If the board were to consider an external agreement as a basis for judging the quality of an underlying security, that external agreement would have to be unconditional and have terms coextensive with those of the underlying security. Moreover, the instrument could not be judged to be of better quality than that of comparable debt securities of the issuer of the external agreement. It should be noted, however, that if the rating service included the external agreement in its calculation of the rating, the instrument will be regarded as a rated instrument, regardless of the board's lack of concurrence with the rating.

[36] As noted above, provided that certain conditions are met, third party agreements may be analyzed in evaluating whether an instrument is of sufficient quality.

[37] Illiquid instruments, in this context, would generally encompass any instrument which cannot be disposed of promptly and in the usual course of business without taking a reduced price. This would include, but is not limited to, repurchase agreements for greater than seven days, non-negotiable instruments, and instruments for which no market exists. *But cf.* the discussion in the text preceding footnote 45, *infra*, of the treatment of a non-negotiable instrument, which may be redeemed with the issuer subject to a penalty. Where the fund is using amortized cost valuation, such an instrument need not be regarded as an illiquid security if, when the fund monitors the deviation, it uses a market value for such security, which includes the effect of the penalty charge.

[38] In the event that changes in the portfolio or other external events cause the investments in illiquid instruments to exceed ten percent of the fund's net assets, the fund must take steps to bring the aggregate amount of illiquid instruments back within the prescribed limitations as soon as reasonably practicable. However, this requirement generally would not force the fund to liquidate any portfolio instrument where the fund would suffer a loss on the sale of that instrument.

[39] Section 22(e) of the Act [15 U.S.C. 80a-22(e)].

affected by the purchase of illiquid instruments. If the investment company found that it was forced to sell portfolio instruments in order to satisfy redemptions, it might sell marketable securities which it would otherwise wish to retain in order to avoid attempting to dispose of non-negotiable instruments or other illiquid instruments, since the sale of non-negotiable or illiquid securities would necessitate the money market fund's accepting a reduced price. The judgment concerning which securities would be retained would no longer be based upon comparative investment merit. Therefore, the board of directors has a particular responsibility to ensure that when a money market fund purchases or acquires illiquid instruments, such instruments will not impair the proper management of the fund.

Finally, the purchase of illiquid instruments can seriously complicate the valuation of a money market fund's shares and can result in the dilution of shareholders' interests. If illiquid instruments which were valued at amortized cost were disposed of at a reduced price, then, in retrospect, the net asset value of the money market fund would have been overstated. Similarly, if illiquid instruments were valued at a discounted value (to compensate for the possibility that they may have to be disposed of prior to maturity), but were held to maturity and thus yielded their full value, the net asset value of the money market fund would have been understated. Regardless of the types of instruments purchased, the board of directors of a money market fund is under the same obligation to ensure that the price per share correctly reflects the current net asset value per share of the fund. Therefore, when a fund purchases illiquid instruments, the board of directors has a fiduciary duty to ascertain that the fund is operated in such a manner that the purchase of such instruments does not materially affect the valuation of the fund's shares.

Obligation of the Board to Maintain Stable Price

A money market fund that describes itself in its prospectus as having or seeking to maintain a stable price per share through portfolio management and use of a special pricing or asset valuation method has an obligation to its shareholders to continue the chosen method so long as it is consistent with the provisions of the Act, until shareholders are notified of a change in policy. The Commission believes that where a money market fund adopts either the amortized cost valuation or penny-rounding pricing method under the rule to enhance its ability to maintain a stable price it has a heightened responsibility to shareholders to maintain that stable price. Accordingly, under paragraphs (a)(2)(i) and (a)(3)(i) of the rule, the board of directors of a money market fund wishing to use either penny-rounding or the amortized cost valuation method has a particular obligation to assure that the fund is managed in such a way that a stable price will be maintained.

The rule as originally proposed contemplated that funds using either the amortized cost method or penny-rounding method would stabilize their net asset value per share or their price per share, respectively, at $1.00. In so doing the Commission did not wish to foreclose funds from using a single stabilized value other than $1.00, but was merely codifying what seemed to be an industry practice. The Commission received a few comment letters which expressed the desire to have some flexibility in the value at which a fund would be stabilized. Therefore, paragraphs (a)(2)(i) and (a)(3)(i) of the rule were revised to permit funds using amortized cost or penny-rounding to stabilize the net asset value per share or price per share, respectively, at a single value, rather than specifically at $1.00.

For a fund seeking to use the amortized cost valuation method, the board of directors has a responsibility to establish procedures reasonably designed to stabilize the fund's net asset value per share. For a fund seeking to use the penny-rounding method, the board of directors has a responsibility, through its supervision of the fund's operations and delegation of special responsibilities to the investment adviser, to assure, to the extent reasonably practicable, that the money market fund's price per share remains stabilized at the single value selected.[40]

Testimony by witnesses from the investment company industry presented at the hearings on the original applications for amortized cost valuation alleged that with the limitations on quality and length of maturity provided, short of extraordinarily adverse conditions in the market, a money market fund that is properly managed should be able to maintain a stable price per share.[41] The orders granting exemptive relief and this rule, which codifies those orders, are premised on that representation. Therefore, the Commission believes that if a money market fund relying on this rule is unable to maintain a stable net asset value per share, and this inability is not due to highly unusual conditions affecting the money markets in general, there is a strong presumption that the board of directors has not fulfilled its obligation to ensure that the fund is properly managed.[42]

Monitoring the Fairness of the Valuation or Pricing Method

In addition to the restrictions on the types of portfolio investments that may be made, the provisions of the rule impose obligations on the board of directors to assess the fairness of the valuation or pricing method and take appropriate steps to ensure that shareholders always receive their proportionate interest in the money market fund. Paragraph (a)(1) of the rule provides that the board of directors of each money market fund relying on the rule must determine that the valuation or pricing method selected is in the best interests of the shareholders of the fund. That finding must be made prior to the implementation of the selected method, and the board must continue thereafter

[40] The rule mandates that the board act in some specific ways to fulfill its responsibility to ensure a stable net asset value or price: having the fund maintain an appropriate dollar-weighted average maturity and permitting the fund to invest only in instruments which present a minimal credit risk and are of high quality. Thus, for example, it appears that the board of directors should, absent extenuating circumstances which would cause such action not to be in the best interest of the fund, cause the money market fund to dispose of any security as soon as practicable, if the quality of that instrument falls below "high quality." *See also* footnote 22, *supra*.

[41] Proceedings before the Securities and Exchange Commission in the Matter of InterCapital Liquid Asset Fund, Inc., *et al.*, 3-5431, December 20, 1978, at 1414.

[42] The Commission received several negative comments in response to this view. These commentators stated that no presumption of failure by the board to fulfill its responsibilities should flow from the fund's failure to maintain a stable net asset value per share and that the Commission should focus upon whether the procedures adopted were reasonable. As stated elsewhere in this release, the Commission does not expect the board of directors to be insurers of the activities of the investment adviser or of the fund. The Commission has evaluated in the past, and would similarly evaluate in the future, the actions of the board of directors based upon a reasonable business standard. However, in permitting funds to use the amortized cost valuation method, the Commission was assured that under all but extreme circumstances, the responsibilities imposed by the rule, if fulfilled, would produce stability. The rule and the specific exemptive orders provide the board with substantial discretion in adopting procedures to achieve this end. The mere adoption of those specific procedures required in the rule and exemptive orders will not, *per se*, fulfill the board's responsibilities. On the other hand, if a board adopts procedures which are reasonably designed to assure stability and the board acts in a reasonable fashion to assure that those procedures are followed, the Commission would not hold the board responsible for any failure to maintain a stable net asset value per share.

to believe that the method fairly reflects the market-based net asset value per share.[43] Moreover, the minutes should reflect the finding and include the factors that were considered by the board and the board's analysis of those factors in reaching its conclusion. The rule imposes an obligation on the board to discontinue the use of the selected valuation or pricing method if it ceases to reflect fairly the market-based net asset value per share. In that case, the fund's current price and net asset value per share would ordinarily have to be determined in conformance with the provisions of section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] and rules 2a–4 and 22c–1 thereunder [17 CFR 270.2a–4 and 270.22c–1].

In addition to the general obligation to assess the fairness of the valuation or pricing system, paragraph (a)(2)(ii) of the rule requires the board of a money market fund relying on this rule and using the amortized cost method of valuation to adopt procedures whereby the board periodically will review the monitoring of the deviation between the per share net asset value based on the market value of the portfolio ("market-based value") and the price per share computed from a net asset value per share calculated using the amortized cost valuation of the portfolio, which must be performed at intervals that are deemed appropriate by the board and are reasonable in light of current market conditions. In addition, the rule requires the maintenance of a record of both functions. The rule does not prescribe specific intervals for such monitoring; however, the board must select intervals that are reasonable "in light of current market conditions." This means that the reviews should be frequent enough so that the board may become aware of changes in the market-based per share net asset value before they become material. During periods of high market volatility, this requirement may necessitate that the deviation between such market-based value and price be monitored on a daily basis. During periods of lower volatility, it may be reasonable to monitor such deviation less frequently.

As with other functions required by the rule, the board is not compelled to perform the actual day-to-day monitoring itself. That function may be performed by the investment adviser or some other entity. However, the board is ultimately responsible for the monitoring function. The board does not fulfill its responsibility to review such monitoring by merely requiring the investment adviser to notify it at some designated benchmark, unless the board has a reasonable basis for believing that the portfolio is being correctly and appropriately monitored. In order to have such a reasonable basis, the Commission believes that the board should assure itself that the intervals between monitoring will be changed as appropriate to be responsive to changing market conditions and that the monitoring process will include an appropriate method to determine the market value of each type of instrument contained in the fund's portfolio. In addition, the Commission believes that periodically the board should review the actual monitoring calculations.

In determining the market-based value of the portfolio for purposes of computing the amount of deviation, all portfolio instruments, regardless of the time to maturity, should be valued based upon market factors and not their amortized cost value.[44] That value should reflect the amount that would be received upon the current sale of the asset. Accordingly, a non-negotiable instrument which is not treated as an illiquid security because it may be redeemed with the issuer, subject to a penalty for early redemption, must be assigned a value for monitoring purposes which takes into account the reduced amount that would be received if it were currently liquidated.[45]

The rule was modified slightly to indicate explicitly that the monitoring may be performed with suitable substitutes for market quotations. The Commission will not object if a fund, with the approval of its board, determines the market-based value of each instrument using estimates of market value which reflect current market conditions or using values derived from yield data relating to classes of money market instruments obtained from reputable sources, provided that certain minimum conditions are met. Where estimates of market value rather than actual quotations are used, the board should review and approve the method by which such estimates will be obtained. Any pricing system based on yield data for selected instruments used by a fund must be based upon market quotations for sufficient numbers and types of instruments to be a representative sample of each class of instrument held in the portfolio, both in terms of the types of instruments as well as the differing quality of the instruments. Moreover, periodically, the board should check the accuracy of the pricing system or the estimates. If the fund uses an outside service to provide this type of pricing for its portfolio instruments, it may not delegate to the provider of the service the ultimate responsibility to check the accuracy of the system.

The rule does not include a specific requirement that a money market fund using the penny-rounding method monitor the market-based value of its shares because such market-based valuation generally is itself the basis for the calculation of the per share net asset value upon which the price per share is computed. However, where a penny-rounding money market fund uses the amortized cost method to value portfolio instruments with remaining maturities of 60 days or less,[46] monitoring the deviation between the net asset value per share calculated using the market based value of all its portfolio instruments and its price per share may

[43] This requirement was not explicitly listed as a condition of the prior exemptive orders; however, the obligation existed as a result of: (1) the general obligation of a board to value portfolio instruments at fair value, which would cause the net asset value per share to reflect fairly each shareholder's interest, and (2) the specific condition of the orders that required the board to take action to eliminate any potential for dilution or unfair results, which might include ceasing to use the amortized cost method.

[44] Release 9786 set forth the Commission's position that it would not object to a board of directors determining, in good faith, that it was appropriate for a money market fund to value securities with less than 60 days remaining until maturity at amortized cost, unless the particular circumstances dictate otherwise. The impact of that release was to obviate the necessity of exemptive relief for such valuation. Thus, while it may be appropriate for the board to value certain portfolio securities at amortized cost without adherence to the conditions contained in the rule, Release 9786 does not affect the monitoring procedures under this rule. Where the fund is using amortized cost valuation to such an extent that exemptive relief is necessary, *i.e.*, its portfolio contains any security with a maturity in excess of 60 days, the monitoring procedures contained in the rule are designed to place a limitation on the total deviation between the fund's amortized cost value and its market-based value. In order to calculate precisely that total deviation, all instruments must be valued at market value. In addition, prudence would seem to suggest that funds which are relying solely on Release 9786 in order to allow them to use the amortized cost method of valuing their portfolio securities should institute procedures to monitor whether any "particular circumstances" have developed which make the use of amortized cost no longer appropriate.

[45] A non-negotiable instrument, which may be put back to the issuer subject to a penalty may be treated as a liquid security, provided that for monitoring purposes the market value assigned to the instrument includes the effect of the penalty, or it may be treated as an illiquid security, with no reduction in value to reflect the penalty charge; provided that the security is then counted towards the ten percent limitation on illiquid securities. A money market fund, especially a fund with expedited redemption features, should carefully consider, however, whether securities subject to a penalty may impair the fund's liquidity.

[46] *See* footnote 44, *supra*.

be necessary in order for the board to fulfill its responsibility to oversee the use of the penny-rounding method. If the price per share obtained through penny-rounding does not fairly represent each shareholder's interest in the fund, the board is obligated to use another pricing system which does fairly reflect each shareholder's interest. Particularly in a volatile market, if a penny-rounding fund were to use amortized cost valuation for a material portion of its portfolio, monitoring of actual market values might be necessary in order for the board to make a determination regarding the current fairness of prices obtained under the penny-rounding method. Moreover, the board's obligation to assure that the money market fund is maintaining an appropriate dollar-weighted average maturity to ensure stability may require that the per share net asset value based upon the market value of all the fund's portfolio instruments be monitored in order for the board to make a reasonable determination whether the maturity must be changed in order to ensure stability. The money market fund should retain a written record of any monitoring and the frequency of such monitoring should be appropriate in light of current market conditions.

Obligation of the Board to Take Action to Stabilize Net Asset Value Per Share

Pursuant to paragraph (a)(2)(i) of the rule, the board of directors of a money market fund using the amortized cost method must establish procedures reasonably designed, taking into account current market conditions and the fund's investment objectives, to stabilize the funds's per share net asset value at a singe price. While the rule does not mandate the specific content of the procedures other than as set forth in paragraph (a)(2)(ii), described below, the procedures must be in writing (paragraph (a)(2)(v)) and should provide for action on the part of the investment adviser or the board of directors to ensure that the per share net asset value remains stable. Since the rule prescribes only the minimum provisions that must be included in the procedures adopted by the board, the Commission emphasizes that the board should consider carefully what types of procedures it may wish to establish in order to satisfy the responsibilities to ensure stability and fair valuation undertaken in connection with selecting the valuation method. Examples of types of other procedures that boards may wish to consider adopting are: (1) "early warning systems" whereby the board establishes a procedure requiring the investment adviser to inform the board, and the board to meet and consider what action is appropriate to take, whenever the market based per share net asset value of the fund falls below or rises above some predesignated level; and (2) procedures which require the investment adviser to modify its portfolio purchases in specified ways as market conditions change.

The specific provisions prescribed in paragraph (a)(2)(ii) of the rule include an obligation that, in the event that the deviation between market-based net asset value per share and amortized cost price exceeds ½ of 1 percent [47] the board of directors will promptly consider what action, if any, should be initiated by the board. [48] In fulfilling that obligation, the Commission takes the position that it is inappropriate, and will not satisfy the condition, for the board of directors to determine that it need not take any action to stabilize the per share net asset value on the basis that the amount of deviation will be reduced over time by anticipated interest rate changes in the market. The Commission bases its position on the fact that the board has, by undertaking to establish procedures to stabilize the net asset value per share, obligated itself to take affirmative action to ensure stability. Because no one can forecast with certainty market trends, or at what point the fund might experience a large increase in redemptions, the Commission believes that a decision not to take any action to reduce the deviation, based upon a belief that market action will reduce the deviation, is not an action reasonably designed to ensure stability. [49]

The board is required additionally to take such action as it deems appropriate whenever it believes that the amount of deviation may result in material dilution or other unfair results to investors or existing shareholders. [50] The rule neither specifies what actions the board must take, nor lists, as orders of exemption have, possible courses of action. However, there is a variety of methods to reduce the deviation, including: Adjusting dividends; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the money market fund; or redeeming shares in kind. [51]

In any event, as provided in paragraph (a)(1) of the rule, if the board were ever to determine that the deviation was such that it could no longer conclude that the amortized cost price fairly reflected the market-based net asset value per share, because of the possibility of dilution or other unfair results, it would have to discontinue use of the amortized cost method of valuation and calculate its price per

[47] In determining whether the deviation exceeds ½ of 1 percent, the market-based per share net asset value must be calculated to the nearest one-hundredth of a cent on a share value of one dollar with no rounding. Therefore, where a fund has an amortized cost price of $1.00, a market-based net asset value per share of .99500 would not be considered as exceeding the ½ of 1 percent mark, but a value of .99499 could not be rounded up and thus the deviation would be considered to exceed this benchmark.

[48] The Commission received a comment that the rule should be revised to permit corrective action to be taken either by the board or by the investment adviser pursuant to guidelines established by the board once the fund reached the point where the deviation exceeded ½ of 1 percent. While the Commission has no objection to the board directing the investment adviser to take the actual steps necessary to correct the deviation, it does not believe that the determination of what action should be delegated to the investment adviser, even if it is pursuant to board guidelines. The purpose of this provision is to have the board personally review the operations of the fund at a point which the Commission views as critical. Therefore, this portion of the rule remains unaltered. We note, however, that as discussed elsewhere in this release, the board may adopt procedures for the investment adviser to take corrective action within certain guidelines established by the board at stages prior to reaching ½ of 1 percent deviation.

[49] The Commission received a number of comments disagreeing with its view that the board is required to take affirmative action to stabilize the per share net asset value of the fund. Commentators expressed the view that the board should be given total discretion to exercise reasonable business judgment concerning what actions, if any, are needed to ensure stability. While the Commission agrees that the board should be given considerable discretion in determining how the fund should be operated to achieve the goal of stability, the rule and the exemptive orders require the board to operate within certain limitations that are designed to function as safety checks. Therefore, the Commission continues to take the position that the board should not have unfettered discretion. However, the Commission has modified its prior position to the extent that it will not necessarily regard a board's decision not to take action based upon the anticipated maturation of portfolio instruments as *per se* unreasonable. Any such decision, however, would be closely scrutinized to determine whether in light of the particular circumstances, such a decision was an action reasonably designed to ensure stability.

[50] It should be noted that this requirement of the rule does not depend upon a determination that the deviation *will* result in material dilution, only that it *may*. Because the Commission deems a deviation of ½ of 1 percent to be a material amount, under all but highly unusual circumstances, the Commission would find that a deviation exceeding ½ of 1 percent *may* result in material dilution or other unfair results to shareholders. Thus, it is unlikely that a board of directors could, in conformance with the provisions of the rule, make a finding that no action was necessary when the deviation reached that level. Moreover, a board may find that the possibility of material dilution exists when the deviation is less than ½ of 1 percent. In such an event, the board would also be obligated to take corrective action.

[51] The Commission is not proposing to codify such examples in order to avoid any implication that other actions would be inappropriate.

share in accordance with the provisions of the Act and rules thereunder. [52] It should be noted, however, that the board of directors must undertake, as a duty to shareholders, the responsibility of establishing procedures reasonably designed to preclude the necessity for such a switch in valuation methods.

Although the rule does not prescribe the specific actions that the board of directors of a fund using the penny-rounding method must take at a given time to assure that the price per share does not fluctuate, the rule explicitly imposes an obligation on the board to operate the fund in such a manner and, therefore, take action, to preclude a change in the price per share. As the net asset value per share begins to move away from one dollar, the board should consider, among other things altering the average portfolio maturity or the quality of instruments purchased to stabilize the current price per share at one dollar.

With the penny-rounding method, if the net asset value [53] ever fell below .99500 or rose above 1.00500 without rounding on a share value of $1.00, the fund would have to change its price per share to $.99 or $1.01, respectively, or would have to cease to use the penny-rounding method and calculate its price with the accuracy of at least a tenth of a cent. However, under the conditions of the rule, a fund may similarly have to adjust its price under another circumstance. As noted in Release 9786, a fund using penny-rounding may, if the board deems it appropriate, value portfolio securities with less than 60 days until maturity at amortized cost. If all securities held by such a fund were to be valued at market and the net asset value per share based upon those market values, rounded to the nearest one cent, did not fairly reflect the single price per share, then pursuant to paragraph (a)(1) of the rule the fund would have to cease to price its shares at the single price established by the board.

[52] Even without this provision of the rule, the board of directors has an obligation to discontinue a pricing method that does not fairly reflect the value of the fund's securities. As set forth in Release 9786, section 2(a)(41) requires the board of directors to value the fund's assets at fair value as determined in good faith. The language of this obligation was modified slightly in response to comments that indicated that the original language requiring the price to fairly reflect the value of each shareholder's interest was vague; that the shareholder's interest was the fair market value of a share and that the rule should be modified to reflect that.

[53] The net asset value must be calculated using market-based values for all instruments other than those with less than 60 days until maturity, which generally may be valued at amortized cost, unless particular circumstances dictate otherwise. *See* footnote 44, *supra*.

Record of Actions Taken to Stabilize Price

Under paragraph (a)(2)(v) of the rule a money market fund using the amortized cost method must maintain a written record that documents the board's compliance with its obligations under the rule, including its responsibility to consider and take action where mandated. The rule provides that the documentation, which should include a discussion of all instances where the board considered whether action should be taken and what actions were initiated, must be included in the minutes of the board of directors' meetings and must be preserved for six years. Such documentation must also be made available for inspection by the staff of the Commission. In addition, pursuant to paragraph (a)(2)(vi), if any action is taken pursuant to paragraph (a)(2)(ii)(C) of the rule, the board of directors shall cause the fund to file quarterly, as an attachment to Form N–1Q [17 CFR 274.106], a statement describing with specificity the circumstances surrounding the action and the nature of the action taken. This provision of the rule is a slight departure from the existing orders in that it requires funds to make a filing only if some action was taken. [54] The Commission believes that the modified filing requirement, in conjunction with the board's monitoring, will provide adequate controls over the use of the amortized cost valuation method and is in accord with the purposes of new provisions regarding the filing of Form N–1Q's and the reduced paperwork burdens thereof. [55]

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule

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

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding new § 270.2a–7, as follows:

[54] The existing orders require a quarterly filing stating whether or not any action was taken. In order to eliminate differential treatment, the Division will not recommend that the Commission take any action against a fund if it continues to rely on its individual exemptive order but follows the Form N–1Q reporting requirement contained in the rule.

[55] *See* Securities Act Release No. 6366 (December 16, 1981), 46 FR 62246 (December 23, 1981).

§ 270.2a–7 Use of the amortized cost valuation and penny-rounding pricing methods by certain money market funds.

(a) The current price per share, for purposes of distribution, redemption and repurchase, of any redeemable security issued by a registered investment company (hereinafter referred to as a money market fund), notwithstanding the requirements of section 2(a)(41) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(41)] and of rule 2a–4 [17 CFR 270.2a–4] and rule 22c–1 [17 CFR 270.22c–1] thereunder, may be computed either by use of the amortized cost method of valuation or by use of the penny-rounding method of pricing; *Provided*, That:

(1) The board of directors of the money market fund (trustees in the case of a trust) determines, in good faith based upon a full consideration of all material factors, that it is in the best interests of the fund and its shareholders to maintain a stable net asset value per share or a stable price per share, by virtue of either the amortized cost method of valuation or by use of the penny-rounding method of pricing, and that the money market fund will continue to use such method only so long as the board of directors believes that it fairly reflects the market-based net asset value per share; and either

(2) In the case of a money market fund using the amortized cost method of valuation:

(i) In supervising the money market fund's operations and delegating special responsibilities invloving portfolio management to the money market fund's investment adviser, the money market fund's board of directors (trustees) undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the money market fund's investment objectives, to stabilize the money market fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at a single value;

(ii) Included within the procedures to be adopted by the board of directors (trustees) shall be the following:

(A) Procedures adopted whereby the extent of deviation, if any, of the current net asset value per share calculated using available market quotations (or an appropriate substitute which reflects current market conditions) from the money market fund's amortized cost price per share, will be determined at such intervals as the board of directors (trustees) deems appropiate and are reasonable in light of current market

conditions; periodic review by the board of directors (trustees) of the amount of the deviation as well as the methods used to calculate the deviation; and maintenance of records of the determination of deviation and the board's review thereof.

(B) In the event such deviation from the money market fund's amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors (trustees) will promptly consider what action, if any, should be initiated by the board of directors (trustees), and

(C) Where the board of directors (trustees) believe the extent of any deviation from the money market fund's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results;

(iii) The money market fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; *Provided, however,* That the money market fund will not: (A) Purchase any instrument with a remaining maturity of greater than one year, or (B) maintain a dollar-weighted average portfolio maturity which exceeds 120 days;

(iv) The money market fund will limit its portfolio investments, including repurchase agreements, to those United States dollars-denominated instruments which the board of directors (trustees) determines present minimal credit risks and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by the board of directors (trustees);

(v) The money market fund will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in paragraph (a)(2)(i) of this section and the money market fund will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' (trustees) considerations and actions taken in connection with the discharge of its responaibilities, as set forth above, to be included in the minutes of the board of directors' (trustees') meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act [15 U.S.C.80a-30(b)] as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act [15 U.S.C. 80a-30)]; and

(vi) If any action was taken pursuant to paragraph (a)(2)(ii)(C) of this section, the money market fund will file a statement as an attachment to Form N-1Q (filed pursuant to rule 30b1-1(b)) describing with specificity the nature and circumstances of such action within 30 days after the close of each calendar quarter during which such action was taken; or

(3) In the case of a money market fund using the penny-rounding method of pricing:

(i) In supervising the maney market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors (trustees) undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting the money market fund's investment objectives, that the money market fund's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one per cent, will not deviate from the single price established by the board of directors (trustees).

(ii) The money market fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *Provided, however,* That the money market fund will not (A) purchase any instrument with a remaining maturity of more than one year, or (B) maintain a dollar-weighted average portfolio maturity which exceeds 120 days; and

(iii) The money market fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors (trustees) determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors (trustees).

(b) *Definitions.* (1) The "amortized cost method of valuation" is the method of calculating an investment company's current net asset value whereby portfolio securities are valued by reference to the fund's acquisition cost as adjusted for amortization of premium or accumulation of discount rather than by reference to their value based on current market factors.

(2) The "penny-rounding method of pricing" is the method of computing an inyestment company's price per share for purposes of distribution, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one percent.

(3) A variable rate instrument is one whose terms provide for automatic establishment of a new interest rate on set dates.

(4) A floating rate instrument is one whose terms provide for automatic adjustment of its interest rate whenever some specified interest rate changes.

(5) The maturity of an instrument shall be deemed to be the period remaining until the date noted on the face of the instrument as the date on which the principal amount owed must be paid, or in the case of an instrument called for redemption, the date on which the redemption payment must be made, except that:

(i) If the board of directors (trustees) has determined that it is reasonable to expect that whenever a new interest rate on a variable rate instrument is established it will then cause the instrument to have a current market value which approximates it par value, (A) an instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest readjusted no less frequently than annually may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate; (B) an instrument which has a demand feature that entitles the holder to receive the principal amount of such instrument from the issuer upon no more than seven days' notice and which has a variable rate of interest may be deemed to have a maturity equal to the longer of the period remaining until the interest rate will be readjusted or the period remaining until the principal amount owed can be recovered through demand, *Provided,* That the board of directors (trustees) determines no less frequently that quarterly that the instrument is of high quality; and (C) an instrument

which has a variable rate of interest may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. *Provided*, That the period remaining until the date noted on the face of the instrument as the date on which the principal amount owed must be paid is one year or less;

(ii) An instrument which has a demand feature that entitles the holder to receive the principal amount of such instrument from the issuer upon no more than seven days' notice and which has a floating rate of interest may be deemed to have a maturity equal to the period of time remaining until the principal amount owed can be recovered from the issuer through demand. *Provided*, That the floating interest rate is adjusted concurrently with any change in an identified market interest rate to which it is pegged and the board of directors (trustees) determines (A) that it is reasonable to expect that such floating rate feature will ensure that the market value of such instrument will always approximate its par value, and (B) no less frequently than quarterly that the instrument is of high quality;

(iii) A repurchase agreement may be treated as having a maturity equal to the period remaining until the date on which the repurchase of the underlying securities is scheduled to occur, or where no specific date is specified, but the agreement is subject to demand, the notice period applicable to a demand for the repurchase of the securities; and

(iv) A portfolio lending agreement may be treated as having a maturity equal to the period remaining until the date on which the loaned securities are scheduled to be returned, or where no specific date is specified, but the agreement is subject to demand, the notice period applicable to a demand for return of the loaned securities.

(6) "One year" shall mean 365 days except, in the case of an instrument that was originally issued as a one year instrument, but had up to 375 days until maturity, one year shall mean 375 days.

Statutory Basis: Rule 2a-7 is promulgated pursuant to the provisions of sections 6(c) (15 U.S.C. 80a-6(c)), 22(c) (15 U.S.C. 80a-22(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act.

By the Commission.

July 11, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19239 Filed 7-15-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101, 104, 201, and 204

[Docket No. RM83-61-000]

Technical Amendments to the Uniform Systems of Accounts for Public Utilities and Licensees and Natural Gas Companies

Issued March 29, 1983 and corrected by Erratum Notice issued May 13, 1983

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Technical amendments to correct errors.

SUMMARY: By these amendments, Parts 101, 104, 201, and 204 of Title 18 of the Code of Federal Regulations are amended to correct errors which have occurred in Title 18. The parts are further revised to delete the subtitle classifications from the textual section and to arrange the text of the accounts in a numerical sequence.

EFFECTIVE DATE: March 29, 1983.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Elaine Dawson, Office of Chief Accountant, Federal Energy Regulatory Comm., 825 North Capitol Street NE., Washington, D.C. 20426, (202) 376-9782. Jonas P. Green, Office of Chief Accountant, Federal Energy Regulatory Comm., 825 North Capitol Street NE., Washington, D.C. 20426, (202) 376-9624.

SUPPLEMENTARY INFORMATION: By these amendments, the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act and the Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, are amended to correct errors which have occurred in Title 18 of the Code of Federal Regulations. The accounts are further revised to delete the subtitle classifications from the textual section of the accounts and place the texts of the accounts in numerical sequence by account group.

A. Background and Summary

The Uniform System of Accounts Prescribed for Public Utilities and Licensees consists of (1) Part 101 for Class A and Class B Companies and (2) Part 104 for Class C and Class D Companies. The Uniform System of Accounts Prescribed for Natural Gas Companies consists of (1) Part 201 for Class A and Class B Natural Gas Companies and (2) Part 204 for Class C and Class D Natural Gas Companies.

Several errors have occurred in the Uniform Systems of Accounts in Title 18 CFR. Under these amendments, the Chart of Accounts to the Uniform Systems of Accounts is amended to correct those errors. The accounts are further revised to delete the subtitle classifications from the textual sections of the Accounts and to arrange the texts in a numerical sequence by account groups. These changes in the accounts as printed in the Code of Federal Regulations do not add or delete any required information, but rather correct errors in the Accounts as printed in the Regulations, and enhance the format in which the text of the accounts are printed in the Regulations, which will allow for easier reference, and lessen the possibility of confusion.

In consideration of the foregoing, Parts 101, 104, 201, and 204, Title 18 of the Code of Federal Regulations, are amended as set forth below.

Kenneth F. Plumb,

Secretary.

PART 101—[AMENDED]

1. Part 101 is amended in the section entitled, "Income Chart of Accounts," by adding two subtitle classifications under the classification, "2. Other Income and Deductions," and placing Account "420, Investment tax credits" immediately following Account "411.5, Investment tax credit adjustments, nonutility operations." As amended, the "Income Chart of Accounts" will read:

Income Chart of Accounts

* * * * *

2. Other Income and Deductions.

A. Other Income.

415 Revenues from merchandising, jobbing and contract work.

* * * * *

B. Other Income Deductions.

421.2 Loss on disposition of property.

* * * * *

C. Taxes Applicable to Other Income and Deductions.

408.2 Taxes other than income taxes, other income and deductions.

* * * * *

411.5 Investment tax credit adjustments, nonutility operations.

420 Investment tax credits.

Total taxes on other income and deductions.

Net other income and deductions.

* * * * *

2. Part 101 is amended in the sections entitled "Balance Sheet Accounts," "Electric Plant Accounts," "Income Accounts," "Operating Revenue Accounts," and "Operation and Maintenance Expense Accounts" by deleting the subtitle classification. As amended the text of these sections will have the following removed:

Subtitle classifications	Location—immediately prior to the title for account
In the Balance Sheet Accounts	
Assets and Other Debits	101
1. Utility Plant	101
2. Other Property Investments	121
3. Current and Accrued Assets	(1)
4. Deferred Debits	181
Liabilities and Other Credits	201
5. Proprietary Capital	201
6. Long-Term Debt	221
7. Current and Accrued Liabilities	(2)
8. Deferred Credits	251/252
9. Operating Reserves	261
In the Electric Plant Accounts:	
1. Intangible Plant	301
2. Production Plant	310
A. Steam Production	310
B. Nuclear Production	320
C. Hydraulic Production	330
D. Other Production	340
3. Transmission Plant	350
4. Distribution Plant	360
5. General Plant	389
In the Income Accounts:	
1. Utility Operating Income	400
2. Other Income and Deduction	415
3. Interest Charges	427
4. Extraordinary Items	434
In the Operating Revenue Accounts:	
1. Sales of Electricity	440
2. Other Operating Revenues	450
In the Operation and Maintenance Expense Accounts:	
1. Power Production Expenses	500
A. Steam Power Generation	500
Operation	500
Maintenance	510
B. Nuclear Power Generation	517
Operation	517
Maintenance	528
C. Hydraulic Power Generation	535
Operation	535
Maintenance	541
D. Other Power Generation	546
Operation	546
Maintenance	551
E. Other Power Supply Expenses	555
2. Transmission Expenses	560
Operation	560
Maintenance	568
3. Distribution Expenses	580
Operation	580
Maintenance	590
4. Customer Accounts Expenses	901
Operation	901
5. Customer Service and Informational Expenses	907
Operation	907
6. Sales Expenses	911
Operation	911
7. Administrative and General Expenses	920
Operation	920
Maintenance	932

[1] Following the text of account 128.
[2] Following the text of account 226.

PART 104—[AMENDED]

3. Part 104 is amended in the sections entitled "Balance Sheet Accounts," "Electric Plant Accounts," "Operating Revenue Accounts," and "Operation and Maintenance Expense Accounts" by removing the subtitle Classifications.

As amended the text of the Sections will have the following removed:

Subtitle classifications	Location—immediately prior to the title for account
In the Balance Sheet Accounts	
Assets and Other Debits	101
1. Utility Plant	101
2. Other Property and Investments	121
3. Current and Accrued Assets	(1)
4. Deferred Debits	181
Liabilities and Other Credits	201
5. Proprietary Capital	201
6. Long-Term Debt	221
7. Current and Accrued Liabilities	(2)
8. Deferred Credits	251/252
9. Operating Reserves	261
In the Electric Plant Accounts:	
1. Intangible Plant	301
2. Production Plant	310
A. Steam Production	310
B. Hydraulic Production	330
C. Other Production	340
3. Transmission Plant	350
4. Distribution Plant	360
5. General Plant	389
In the Income Accounts:	
1. Utility Operating Income	400
2. Other Income and Deductions	415
3. Interest Charges	427
4. Extraordinary Items	434
In the Operating Revenue Accounts:	
1. Sales of Electricity	440
2. Other Operating Revenues	450
In the Operation and Maintenance Expense Accounts:	
1. Power Production Expenses	500
A. Steam Power Generation	500
Operation	500
Maintenance	506
B. Hydraulic Power Generation	530
Operation	530
Maintenance	535
C. Other Power Generation	538
Operation	538
Maintenance	543
D. Other Power Supply Expenses	545
Operation	545
2. Transmission Expenses	550
Operation	550
Maintenance	553
3. Distribution Expenses	560
Operation	560
Maintenance	571
4. Customer Accounts Expense	901
Operation	901
5. Customer Service and Information Expense	907
Operation	907
6. Sales Expenses	910
Operation	910
7. Administrative and General Expenses	920
Operation	920
Maintenance	935

[1] Following the text of account 125.
[2] Following the text of account 226.

PART 201—[AMENDED]

4. Part 201 is amended in the section entitled, "Income Chart of Accounts," by relocating certain account titles and establishing a new subtitle classification for "C. Taxes Applicable to Other Income and Deductions." As amended, the "Income Chart of Accounts" will read:

Income Chart of Accounts

1. Utility Operating Income

400 Operating revenues.
Operating expenses:
401 Operation expense.
402 Maintenance expense.
403 Depreciation expense.
404.1 Amortization and depletion of producing natural gas land and land rights.
404.2 Amortization of underground storage land and land rights.
404.3 Amortization of other limited-term gas plant.
405 Amortization of other gas plant.
406 Amortization of gas plant acquisition adjustments.
407.1 Amortization of property losses.
407.2 Amortization of conversion expense.
408 [Reserved]
408.1 Taxes other than income taxes, utility operating income.
409 [Reserved]
409.1 Income taxes, utility operating income.
410 [Reserved]
410.1 Provision for deferred income taxes utility operating income.
411 [Reserved]
411.1 Provision for deferred income taxes—Credit, utility operating income.
411.3 [Reserved]
411.4 Investment tax credit adjustment, utility operations.
411.6 Gains from disposition of utility plant.
411.7 Losses from disposition of utility plant. Total utility operating expenses.
Other operating income:
412 Revenues from gas plant leased to others.
413 Expenses of gas plant leased to others.
414 Other utility operating income. Net utility operating income.

2. Other Income and Deductions

A. Other Income

415 Revenues from merchandising, jobbing and contract work.
416 Costs and expenses of merchandising, jobbing and contract work.
417 Revenues from nonutility operations.
417.1 Expenses of nonutility operations.
418 Nonoperating rental income.
418.1 Equity in earnings of subsidiary companies.
419 Interest and dividend income.
419.1 Allowance for other funds used during construction.
421 Miscellaneous nonoperating income.
421.1 Gain on disposition of property. Total other income.

B. Other Income Deductions

421.2 Loss on disposition of property.
425 Miscellaneous amortization.
426 [Reserved]
426.1 Donations.
426.2 Life insurance.
426.3 Penalties.
426.4 Expenditures for certain civic, political and related activites.

426.5 Other deductions. Total other income deductions. Total other income and deductions.

C. Taxes Applicable to Other Income and Deductions

408.2 Taxes other than income taxes, other income and deductions.
409.2 Income taxes, other income and deductions.
410.2 Provision for deferred income taxes, other income and deductions.
411.2 Provision for deferred income taxes—Credit, other income and deductions.
411.5 Investment tax credit adjustments, nonutility operations.
420 Investment tax credits. Total taxes on other income and deductions. Net other income and deductions.

3. Interest Charges

427 Interest on long-term debt.
428 Amortization of debt discount and expense.
428.1 Amortization of loss on required debt.
429 Amortization of premium on debt—Credit.
429.1 Amortization of gain on required debt—Credit.
430 Interest on debt to associated companies.
431 Other interest expense.
432 Allowance for borrowed funds used during construction—Credit. Net interest charges.

4. Extraordinary Items

434 Extraordinary income.
435 Extraordinary deductions.
409.3 Income taxes, extraordinary items. Net income

5. Part 201 is amended in the sections entitled "Balance Sheet Accounts," "Gas Plant Accounts," "Operating Revenue Accounts," and "Operation and Maintenance Expense Accounts," by deleting the subtitle classifications. As amended, the text of these sections will have the following removed:

Subtitle classifications	Location—immediately prior to the title for the account
In the Balance Sheet Accounts	
Assets and Other Debits	101
1. Utility Plant	101
2. Other Property and Investments	121
3. Current and Accrued Assets	(1)
4. Deferred Debits	181
Liabilities and Other Credits	201
5. Proprietary Capital	201
6. Long-Term Debt	221
7. Current and Accrued Liabilities	(2)
8. Deferred Credits	252
9. Operating Reserves	261
In the Gas Plant Accounts:	
1. Intangible Plant	301
2. Production Plant	304
A. Manufactured Gas Production Plant	304
B. Natural Production Plant	(3)
(1) Natural Gas Production and Gathering Plant	(3)
(2) Production Extraction Plant	340
3. Natural Gas Storage and Processing Plant	(4)
A. Underground Storage Plant	350.1
B. Other Storage Plant	360
C. Base Load Liquefied Natural Gas Terminaling and Processing Plant	364.1
4. Transmission Plant	365.1
5. Distribution Plant	374
6. General Plant	389
In the Income Accounts:	
1. Utility Operating Income	400
2. Other Income and Deductions	415
A. Other Income	415
B. Other Income Deductions	421.2
3. Interest Charges	427
4. Extraordinary Items	434
In the Operating Revenue Accounts:	
1. Sales of Gas	480
2. Other Operating Revenues	482
In the Operation and Maintenance Expense Accounts:	
1. Production Expenses	700
A. Manufactured Gas Production	700
(1) Steam Production	700
Operation	700
Maintenance	705
(2) Manufactured Gas Production	710
Operation	710
Maintenance	740
B. Natural Gas Production	750
(1) Natural Gas Production and Gathering	750
Operation	750
Maintenance	761
(2) Products extraction	770
Operation	770
Maintenance	784
C. Exploration and Development Expenses	795
D. Other Gas Supply Expenses	800
Operation	800
2. Natural Gas Storage, Terminating and Processing expenses	(5)
A. Underground Storage Expenses	841
Maintenance	830
B. Other Storage Expenses	840
Operation	840
C. Liquefied Natural Gas Terminaling and Processing Expenses	844.1
Operation	844.1
Maintenance	847.1
3. Transmission Expenses	850
Operation	850
Maintenance	861
4. Distribution Expenses	870
Operation	870
Maintenance	885
5. Customers Accounts Expenses	901
Operation	901
6. Customer Service and Informational Expenses	907
Operation	907
7. Sales Expenses	911
Operation	911
8. Administrative and General Expenses	920
Operation	920
Maintenance	932

[1] Following the text of account 128.
[2] Following the text of account 226.
[3] Following the text of account 320.
[4] Following the text of account 347.
[5] Following the text of account 813.

6. Part 204 is amended in the section entitled, "Income Chart of Accounts," by relocating certain account titles and establishing a new subclassification for "C. Taxes Applicable to Other Income and Deductions * * *" As amended, the "Income Chart of Accounts," will read:

Income Chart of Accounts

1. Utility Operating Income

400 Operating revenues.
Operating expenses:
401 Operating expense.
402 Maintenance expense.
403 Depreciation and depletion expense.
404 Amortization of limited-term gas plant.
405 Amortization of other gas plant.
406 Amortization of gas plant acquisition adjustments.
407.1 Amortization of property losses.
407.2 Amortization of conversion expenses.
408.1 Taxes other than income taxes, utility operating income.
409.1 Income taxes, utility operating income.
410.1 Provision for deferred income taxes, utility operating income.
411.1 Income taxes deferred in prior years—Credit utility operating income.
411.4 Investment tax credit adjustments, utility operations. Total gas utility operating expenses. Net gas utility operating income.
411.6 Gains from disposition of utility plant.
411.7 Losses from disposition of utility plant.
Other Operating Income:
412 Revenues from disposition of utility plant.
413 Expenses of gas plant leased to others.
414 Other utility operating income. Net utility operating income.

2. Other Income and Deductions

A. Other Income

415 Revenues from merchandising, jobbing and contract work.
416 Costs and expenses of merchandising, jobbing and contract work.
417 Revenues from nonutility operations.
417.1 Expenses of nonutility operations.
418 Nonoperating rental income.
419 Interest and dividend income.
419.1 Allowance for other funds used during construction.
421 Miscellaneous nonoperating income.
421.1 Gain on disposition of property. Total other income.

B. Other Income Deductions

421.2 Loss on disposition of property.
425 Miscellaneous amortization.
426.1 Donations.
426.2 Life insurance.
426.3 Penalties.
426.4 Expenditures for certain civic, political and related activities.
426.5 Other deductions. Total other income deductions. Total other income and deductions.

C. Taxes Applicable to Other Income and Deductions

408.2 Taxes other than income taxes, other income and deductions.
409.2 Income taxes, other income and deductions.
410.2 Provision for deferred income taxes, other income and deductions.
411.2 Provision for deferred taxes—Credit, other income and deductions.
411.5 Investment tax credit adjustments nonutility operations.
420 Investment tax credits. Total taxes on other income and deductions. Net other income and deductions.

3. Interest Charges

427 Interest on long-term debt.

428 Amortization of debt discount and expense.
428.1 Amortization of loss on reacquired debt.
429 Amortization of premium on debt-Cr.
429.1 Amortization of gain on reacquired debt-credit.
430 Interest on debt to associated companies.
431 Other interest expense.
432 Allowance for borrowed funds used during construction—Credit. Net interest charges.

4. Extraordinary Items

434 Extraordinary income.
435 Extraordinary deductions.
409.3 Income taxes, extraordinary items. Net income.

7. Part 204 is amended in the text of accounts section, by relocating the texts of Account "434, Extraordinary Income," and "Account 435, Extraordinary Deductions," from the Retained Earnings Accounts to the Income Accounts following the text of Account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended, the text of the "Income Accounts" will read:

Income Accounts

* * * * *

432 Allowance for borrowed funds used during construction—Credit.

* * * * * *

434 Extraordinary income.

This account shall be credited with nontypical, noncustomary infrequently recurring gains, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in account 409.3, Income Taxes, Extraordinary Items. (See General Instruction 8.)

435 Extraordinary deductions.

This account shall be debited with nontypical, noncustomary, infrequently recurring losses, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in account 409.3, Income Taxes, Extraordinary Items. (See General Instruction 8.)

Retained Earnings Chart of Accounts

* * * * *

8. Part 204 is amended in the sections entitled "Balanced Sheet Accounts," "Gas Plant Account," "Operating Revenue Accounts," and "Operation and Maintenance Expense Accounts" by deleting the subtitle classifications. As amended the text of the sections will have the following removed.

Subtitle classification	Location—immediately prior to the title for the account
In the Balance Shut Accounts	
Assets and Other Debits	101
1. Utility Plant	101
2. Other Property and Investments	121
3. Current and Accrued Assets	(1)
4. Deferred Debits	181
In the Liabilities and Other Credits	201
5. Proprietary Capital	201
6. Long-Term Debt	221
7. Current and Accrued Liabilities	(2)
8. Deferred Credits	252
9. Operating Reserves	261
In the Gas Plant Accounts:	
1. Intangible Plant	301
2. Production Plant	304
A. Manufactured Gas Production Plant	304
B. Natural Gas Production Plant	(3)
(i) Natural Gas Production and Gas Gathering Plant	(3)
(ii) Products Extraction Plant	340
3. Natural Gas Storage Plant	(4)
A. Underground Storage Plant	350.1
B. Other Storage Plant	360
4. Transmission Plant	365.1
5. Distribution Plant	374
6. General Plant	389
In the Income Accounts:	
1. Utility Operating Income	400
2. Other Income and Deductions	415
A. Other Income	415
B. Other Income Deductions	421.2
3. Interest Charges	427
4. Extraordinary Items	434
In the Operating Revenue Accounts:	
1. Sales of Gas	480
2. Other Operating Revenues	487
In the Operation and Maintenance Expense Accounts:	
1. Manufactured Gas Production	700
2. Natural Gas Production	710
3. Exploration and Development Expenses	720
4. Other Gas Supply Expenses	730
5. Storage Expenses	(5)
6. Transmission Expenses	750
7. Distribution Expenses	760
8. Customer Account Expenses	901
9. Customer Service and Informational Expenses	907
10. Sales Expenses	910
11. Administrative and General Expenses	920
12. Operation	920

[1] Following the text of account 125.
[2] Following the text of account 226.
[3] Following the text of account 320.
[4] Following the text of account 347.
[5] Following the text of account 736.

PART 101—[AMENDED]

9. Part 101 is further amended in the Balance Sheet Accounts of the textual section of the accounts to add the "Special Instructions" heading to the paragraph describing current and accrued assets, immediately following the text of Account 128, Other special funds, and to the paragraph describing current and accrued liabilities immediately following the text of Account 226, Unamortized discount on long-term debt—Debit. As amended, the texts of the accounts will read:

Balance Sheet Accounts

* * * * *

128 Other special funds.

* * * * *

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash,* * *

131 Cash.

* * * * *

226 Unamortized discount on long-term debt—Debit.

* * * * *

Special Instructions for Current and Accrued Liabilities. Current and accrued liabilities are * * *

231 Notes payable.

* * * * *

PART 104—[AMENDED]

10. Part 104 is further amended in the Balance Sheet Accounts of the textual section of the accounts to add the "Special Instructions" heading to the paragraph describing current and accrued assets, immediately following the text of Account 125, Special funds, and to the paragraph describing current and accrued liabilities, immediately following to the text to Account 226, Unamortized discount on long-term debt—Debit. As amended, the text of the accounts will read:

Balance Sheet Accounts

* * * * *

125 Special funds.

* * * * *

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash,* * *

* * * * *

131 Cash and working funds.

* * * * *

226 Unamortized discount on long-term debt—Debit.

* * * * *

Special Instructions for Current and Accrued Liabilities. Current and accrued liabilities are * * *

231 Notes payable.

* * * * *

11. Part 201 is further amended in the Balance Sheet Accounts of the textual section of the accounts to add the "Special Instructions" heading to the paragraph describing current and accrued assets, immediately following the text of Account 128, Other special funds, and to the paragraph describing current and accrued liabilities immediately following to the text to

Account 226, Unamortized discount on long-term debt—Debit. As amended, the texts of the accounts will read:

Balance Sheet Accounts

* * * * *

128 Other special funds.

* * * * *

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash.* * *

131 Cash.

* * * * *

226 Unamortized discount on long-term debt—Debit.

* * * * *

Special Instructions for Current and Accrued Liabilities. Current and accrued liabilities are * * *

231 Notes payable.

* * * * *

PART 204—[AMENDED]

12. Part 204 is further amended in the Balance Sheet Accounts of the textual section of the accounts to add the "Special Instructions" heading to the paragraph describing current and accrued Asset, immediately following the text to Account 125, Special funds, and to the paragraph describing current and accrued liabilities immediately following to the text to Account 226, Unamortized discount on long-term debt—Debit. As amended, the text of the accounts will read:

Balance Sheet Accounts

* * * * *

128 Special funds.

* * * * *

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash.* * *

131 Cash and working funds.

* * * * *

226 Unamortized discount on long-term debt—Debit.

* * * * *

Special Instructions for Current and Accrued Liabilities. Current and accrued liabilities are * * *

231 Notes payable.

* * * * *

[FR Doc. 83-19332 Filed 7-15-83; 8:45 am]
BILLING CODE 6717-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: fFinal regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest retes applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also increased. These increases are necessary because previous rates were not competitive enough to induce lenders to make guaranteed or insured home loans without substantial discounts, or to make manufactured home loans. The increase in the interest rates will assure a continuing supply of funds for home mortgages, home improvement and manufactured home loans.

EFFECTIVE DATE: July 11, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by the VA as he finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general increase in interest rates charged on conventional manufactured home loans, and the increase in other short-term and long-term interest rates—have shown that the manufactured home capital markets have become more restrictive. It is now necessary to increase the interest rates on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans in order to assure an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans, including graduated payment mortgage loans, and for loans for home improvement purposes. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans and the general increase in interest rates charged by lenders on conventional loans, have shown that the mortgage money market has become more restrictive. The maximum rates in effect for VA guaranteed home and condominium loans and those for energy conservation and home improvement purposes have not been sufficiently competitive to induce private sector lenders to make these types of VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rates applicable to home and improvement loans is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they do not come within the definition of a "major rule" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory

responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured, and direct home and condominium loans, loans for energy conservation and other home improvement purposes, and loans for manufactured home purposes would create an acute shortage of funds pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These increases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), and 36.4311 (a), (b), and (c), and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan Programs—housing and community development, Manufactured homes, Veterans.

Approved: July 8, 1983.

By direction of the Administrator.

Dorothy L. Starbuck,

Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective July 11, 1983, 14½ percent simple interest per annum for a loan which finances the purchase of a manufactured home unit only.

(2) Effective July 11, 1983, 14 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective July 11, 1983, 14 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

2. In § 36.4311, paragraphs (a), (b), and (c), are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12½ per centum per annum, effective July 11, 1983, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 12½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12¾ per centum per annum, effective July 11, 1983, the interest rate on any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 12¾ per centum per annum. (38 U.S.C. 1803(c)(1))

(c) Effective July 11, 1983, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements or repairs which is guaranteed or insured wholly or in part on or after such date may not exceed 14 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provision of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 12½ percent per annum. Loans solely for the purpose of energy conservation improvement or other alterations, improvements, or repair shall bear interest at the rate of 14 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 83-19234 Filed 7-15-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2371; TN-010]

Approval and Promulgation of Implementation Plans; Tennessee; Knox County Lead Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of the lead implementation plan developed by the Knox County Department of Air Pollution Control for Knox County, Tennessee. This plan fills the requirements of Section 110(a)(1) of the Clean Air Act (the Act) in regard to the lead National Ambient Air Quality Standards (NAAQS) in Knox County. The Knox County lead implementation plan demonstrates attainment of the lead standard.

EFFECTIVE DATE: This action will be effective on September 16, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. Raymond S. Gregory of Region IV's Air Management Branch (see address below). Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Library, Office of the Federal Register 1100 L Street NW., Room 8401, Washington, D.C. 20005
Knox County Department of Air Pollution Control, City-County Building, Room L222, 400 Main Avenue, Knoxville, Tennessee 37902
Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On October 5, 1978, NAAQS Corp for lead were promulgated by the Environmental Protection Agency (EPA) (43 FR 46246). The Act requires each State to submit, within nine months after promulgation of NAAQS, a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of the primary and secondary NAAQS within the State. The State of Tennessee has submitted a SIP for the attainment of the lead NAAQS in Knox County. This plan was developed by the Knox County Department of Air Pollution Control and includes a demonstration of attainment of the lead NAAQS in Knox County during 1982.

The general requirements for SIP's are outlined in Section 110(a)(2) of the Clean Air Act and in EPA regulations set forth at 40 CFR Part 51, Subpart B. Specific requirements for lead SIP's—lead air quality data, emission inventory for lead, control strategies for lead, etc.—are outlined in 40 CFR Part 51, Subpart E.

On March 1, 1983, the Tennessee Department of Public Health submitted the Knox County lead SIP to EPA for approval. The plan includes a summary of measured air quality data from 1974 to present, a base-year emission inventory for mobile sources, control strategies showing reductions in lead emissions from mobile sources, and calculations of projected ambient air lead concentrations. No emission inventory or control strategies were included for stationary sources since there are no significant stationary sources of lead in Knox County.

Knox County's demonstration shows that the lead phase-down requirements will result in reductions of ambient lead concentrations from 1.61 ug/m³ in 1978 to 0.61 ug/m³ in 1985. This is based on the rollback method, a background of 0.02 ug/m³ of lead, and demonstrates that the National Ambient Air Quality Standard of 1.5 ug/m³ averaged over a calendar quarter will be obtained.

Action

EPA today approves the lead plan for Knox County. This is being done without prior proposal because the plan is noncontroversial, is based on accepted procedures, is of limited impact, and is expected to elicit no comments. The public should be advised that this action will be effective 60 days from the date of the **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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)).

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Director of the Office of the Federal Register approved the incorporation by reference of the Tennessee State Implementation Plan on July 1, 1982.

List of Subjects in 40 CFR Part 52

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

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: June 30, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart RR—Tennessee

Section 52.2220, is amended by adding paragraph (c)(53) as follows:

§ 52.2220 Identification of plan.

* * * * *

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

* * * * *

(53) Knox County plan for lead, submitted on March 1, 1983, by the Tennessee Department of Public Health.

[FR Doc. 83-19335 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 271

[HW-4-FRL 2400-4]

Hazardous Waste Management Program; Alabama; Request for Extension of Application Deadline

AGENCY: Environmental Protection Agency.

ACTION: Notice of Extension of Application Submission and Interim Authorizatio Period.

SUMMARY: On July 1, 1983, the State of Alabama requested an extension beyond the July 26, 1983, deadline for application for Phase II, Components A, B, and C, interim authorization under the Resource Conservation and Recovery Act of 1976, as amended. Alabama requested an extension for submitting a complete application for Phase II, Components A and B, until September 15, 1983, and for Phase II, Component C, until November 1, 1983. EPA is granting this extension. One effect of this action is to allow Alabama to submit its application after July 26, 1983. It also avoids termination on July 26 of the interim authorization which EPA granted previously to the State for the Phase I portion of the hazardous waste program.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator may, for good cause, extend the July 26, 1983, deadline for submission of the interim authorization application and the deadline for termination of the approval of the State program.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Alabama received Phase I interim authorization on February 25, 1981. Alabama's ability to apply for Phase II interim authorization before July 26, 1983, was delayed because the Alabama Legislature, presently in session, has to date, failed to enact legislation to resolve the permit by default issue necessary for approval of interim and final authorization. Under the Code of Alabama 22-30-12(c)(1), the Board may be forced to issue a permit by default if the permitting process cannot be completed within ninety (90) days. With this default provision, the Alabama program is not substantially equivalent to 40 CFR 271.129 (b), (c), and (d) (formerly 40 CFR 123.129), and Section 7004(b), of RCRA. Anticipating enactment of the necessary legislation, Alabama has committed to the following schedule for applying for authorization.

September 15, 1983—Submit complete application for Phase II, A and B.

October 1983—EPA reviews and comments on application.

November 1, 1983—Submit complete application for Phase II, Component C.

March 1984—Submit draft final authorization application.

July 1984—Submit complete final authorization application.

Decision

Considering the above schedule and Alabama's past performance in managing and implementing a hazardous waste management program in a timely fashion, I found there was good cause to grant the State's request for an extension beyond the deadline for applying for Phase II, Components A, B, and C. Therefore, Alabama must officially submit a complete application for these components to EPA on or before September 15, 1983, for Phase II, Components A and B, and on or before November 1, 1983, for Phase II, Component C. If the State fails to submit a complete application by the above respective dates, approval of the State program will terminate and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

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

Authority

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

Dated: July 7, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-19014 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6544]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**1In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6 month, 90 days, and 30 days notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective

suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact on future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
REGION II					
New York: Fulton	Johnstown, city of	360276B	Mar. 10, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 28, 1974, June 18, 1970	July 18, 1983.
New Jersey: Union	Plainfield, city of	345312	June 19, 1970, emergency; June 25, 1971, regular; July 18, 1983, suspended.	June 26, 1971, July 1, 1974, June 13, 1975.	Do.
REGION III					
Pennsylvania:					
Berks	Pike, township of	421382B	Dec. 10, 1974, emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 24, 1977	Do.
Do Chester	South Coventry, township of	421490B	Apr. 29, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Oct. 18, 1974, June 11, 1976	Do.
REGION IV					
Alabama: Talladega	Lincoln, town of	010198	May 16, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Mar. 5, 1976	Do.
Florida:					
Franklin	Carrabelle, city of	120090B	July 10, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Jan. 30, 1976	Do.
Do	Unincorporated areas	120088B	Aug. 13, 1971, emergency; July 18, 1983, regular; July 18, 1983 suspended.	April 23, 1976	Do.
North Carolina: Union	do	370234B	Aug. 9, 1974, emergency; July 18, 1983, regular; July 18, 1983, suspended.	July 7, 1978	Do.
Tennessee: Rutherford	Murfreesboro, city of	470168B	May 22, 1974, emergency; July 18, 1983, regular; July 18, 1983 suspended.	June 18, 1976	Do.
Mississippi: Warren	Unincorporated areas	280198	Dec. 26, 1973, emergency Nov. 15, 1979, regular; July 22, 1983, suspended.	Nov. 15, 1979	July 22, 1983.
REGION V					
Indiana:					
Dekalb	Auburn, city of	180046B	June 11, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Mar. 19, 1976	Do.
Wells	Bluffton, city of	180269B	May 13, 1975, emergency; July 18, 1983, regular; July 18, 1983 suspended.	Sept. 12, 1975	Do.
Harrison	Corydon, town of	180086B	Jan. 30, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 11, 1976	Do.
Spencer	Grandview, town of	180238B	Apr. 14, 1975; emergency; July 18, 1983, regular; July 18, 1983, suspended.	July 9, 1976	Do.
Huntington	Huntington, city of	180094B	Aug. 8, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 4, 1976	Do.
Do	Unincorporated areas	180438B	Aug. 21, 1978; emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 22, 1979	Do.
Allen	New Haven, city of	180004B	Jan. 30, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	May 21, 1976	Do.
Minnesota: Marshall	Unincorporated areas	270638B	May 15, 1974; emergency; July 18, 1983, regular; July 18, 1983, suspended.	Mar. 27, 1981	July 18, 1983.
Ohio:					
Columbiana	East Liverpool, city of	390078B	Jully 29, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Jan. 16, 1974, Nov. 7, 1975	Do.
Brown	Ripley, village of	390036B	June 12, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	May 21, 1976, May 31, 1974	Do.
Belmont	Shadyside, village of	390031D	Jan. 21, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Nov. 23, 1973, May 21, 1976, Jan. 21, 1977, Sept. 2, 1977.	Do.
Wisconsin:					
Green	Albany, village of	550158B	Mar. 18, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	April 16, 1976, Jan. 9, 1974	Do.
Do	Monticello, village of	550163B	May 15, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	April 16, 1976	Do.
REGION VIII					
Colorado: Boulder	Jamestown, town of	080216B	June 25, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	July 11, 1975	Do.
REGION IX					
California: Tulare	Porterville, city of	060407C	Apr. 2, 1971, emergency; July 18, 1983, regular; July 18, 1983, suspended.	Sept. 26, 1978	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
REGION X					
Alaska: Kobuk Div	Kotzebue, city of	020059	July 28, 1975, emergency; July 18, 1983, regular; July 18, 1983, suspended.	June 21, 1974	Do.

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

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

Issued: July 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-19233 Filed 7-15-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 80-739]

Frequency Allocation and Radio Treaty Matters; General Rules and Regulations; Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the First Report and Order by including the concurring statement of Commissioner Henry M. Rivera which was inadvertently omitted. This proceeding concerns implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979 and the First Report and Order was published in the **Federal Register** on June 16, 1983 on page (48 FR 27541).

FOR FURTHER INFORMATION CONTACT: Mr. Fred Thomas/Mr. William Torak, Office of Science and Technology, 2025 M Street, N.W., Washington, D.C. 20554, (202) 653-8171/(202) 632-7025.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 2 of the Commission's Rules Regarding Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979, correction: General Docket 80-739.

Released: July 5, 1983.

The First Report and Order, FCC 83-272, in the above-entitled matter released June 10, 1983, is corrected to include attached concurring statement of Commissioner Rivera.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Henry M. Rivera

Re First Report and Order Implementing the Final Acts of the 1979 World Administrative Radio Conference

I concur in the domestic adoption of international footnote 836 to the 1979 WARC Final Acts for the same reason concurred in the Memorandum, Opinion, Order and Authorization concerning GTE Satellite's operations in the 11.7–12.2 GHz spectrum band. *See Application of GTE Satellite Corporation,* File No. W-P-C-4355, adopted June 2, 1983 (Rivera, Comm'r, concurring).

[FR Doc. 83-19281 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 81-417; RM-2993; FCC 83-302]

Private Land Mobile Radio Services; Regarding the Need for the Transmission of Call Signs by Stations in the Radiolocation Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In November 1977 Offshore Navigation, Inc. filed a petition requesting that the FCC exempt radiolocation stations from the requirement of transmitting their assigned call signs at the beginning and end of each period of operation. The Commission, after a re-examination of its identification requirements in the Radiolocation Service, deleted the identification requirement for stations operating below 3400 kHz in the Radiolocation Service.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Kennedy, Private Radio Bureau, (202) 634-2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radiolocation station identification.

Memorandum Opinion and Order

In the matter of inquiry into the need for the transmission of call signs by stations in the Radiolocation Service; PR Docket No. 81-417, RM-2993.

Adopted: June 29, 1983.

Released: July 12, 1983.

By the Commission: Commissioner Fogarty not participating.

Introduction

1. On November 1, 1977, Offshore Navigation, Inc. (ONI) filed a petition requesting that the Commission exempt stations in the Industrial Radiolocation Radio Service from the station identification requirement of § 91.152(f) of the Commission's Rules.[1] Radiolocation stations operating on frequencies below 3400 kHz are presently required to transmit their assigned call signs at the beginning and end of each period of operation. Stations operating above 3400 kHz are not required to identify except upon specific instruction from the Commission.[2] ONI argues that the present identification requirement for radiolocation stations operating below 3400 kHz serves no real purpose and should be deleted. All radiolocation stations would then be required to identify only upon specific instruction from the Commission.

2. Four parties filed comments in response to ONI's petition.[3] They all

[1] Parts 89, 91 and 93 of the Commission's Rules have been consolidated into Part 90. The identification requirements applicable to the Radiolocation Service are now contained in § 90.425(c).

[2] Specific identification procedures are required for stations operating above 3400 kHz using spread spectrum techniques. See § 90.425(c)(3).

[3] Teledyne, Inc., Decca Survey Systems, Inc., Odom Offshore Surveys, Inc., and Lorac Services Corporation.

expressed support, differing only on the best procedure for implementation of the proposal.

3. The Commission considered the comments and determined to seek additional information. A Notice of Inquiry was adopted on June 30, 1981.[4] The Notice suggested that the Commission had three options in this proceeding: It could (1) retain, (2) tighten, or (3) eliminate the present identification requirements for radiolocation stations. Parties were invited to address such issues as the nature of radiolocation transmissions, the equipment and the identification procedures used in the Radiolocation Service, and any potential and past interference problems.

4. Four parties filed comments on the Notice of Inquiry.[5] All comments favored eliminating the present identification requirement and supported the arguments advanced by ONI.

Discussion

5. The petition from ONI has caused us to re-examine in detail our identification requirements in the Radiolocation Service. We have considered questions of potential interference, both domestic and international, and questions related to the technology used in the Radiolocation Service.

6. There appears to be little reason to retain our present identification requirements. Because of the long duration of radiolocation transmissions, typically months to years according to the parties filing comments, identification occurs so infrequently as to be of little or no value. If interference occurs as the result of the operation of a radiolocation station, neither the affected parties nor the Commission can wait for the transmission of a call sign. The interference must be resolved by other means. If radio identification is to be meaningful, it simply must be transmitted at frequent intervals.

7. We have considered tightening our present rules to require periodic identification. The periodic transmission of a call sign by radio stations is useful to the Commission, its licensees, and the international communications community. It is the primary means by which interference problems, both domestic and international, can be readily resolved. It facilitates enforcement of the radio law by the Commission and self-enforcement on the part of the licensees. It also allows the Commission to assess the present use of the radio spectrum in order to make informed spectrum allocation decisions. Indeed, the periodic transmission of station identification is a fundamental precept of radio communications.

8. There are circumstances, however, under which the Commission has seen fit not to require periodic identification. Low power communication devices, such as cordless telephones, are exempt from any identification requirements due to their low interference range.[6] Stations used for the remote control of models are not required to transmit identification signals in recognition of both their low interference range and the incompatibility of the transmission of a station call sign with the radio control signal.[7] As we noted earlier, private radiolocation stations operating above 3400 kHz are generally not required to identify their transmissions.[8] So, while the transmission of a radio call sign is, in general, considered an essential requirement in radio communications, there are circumstances under which an exception to this general rule is in the public interest.

9. The radiolocation systems under consideration here are essentially phase comparison systems. By measuring phase differences of ground wave signals transmitted from known fixed locations, the location of a mobile station (typically a ship) relative to the fixed transmitters can be determined. Accurate positioning depends on both continual reception of the ground wave signals and the maintenance of constant phase at the ground wave stations. Any disruption of reception or change in the phase of the ground wave signals results in the loss of position information and the mobile unit (ship) may have to return to a known point to recover its position.

10. The requirements of continual reception and constant phase limit the ability of radiolocation stations to identify. Periodic identification signals would have to be transmitted simultaneously with the radiolocation signal and in a manner that would not disrupt the phase of the radiolocation signal. It appears that it is technically feasible to modify the systems to effect periodic identification. Two possible methods, at least in theory, would be to transmit an identification signal on a separate radio frequency sub-carrier or to amplitude modulate the radiolocation signal itself. In practice, however, these methods could potentially alter the phase of the radiolocation signal, a problem which would make their implementation both difficult and expensive. Additionally, the transmission of a separate sub-carrier would decrease the spectrum efficiency of these systems and could, in itself, cause interference. If the Commission were to require either of these methods, not only would modification of the fixed transmitters be necessary, but radiolocation receivers also would have to be modified to enable reception and demodulation of the station identification.

11. The primary benefit associated with periodic identification is easier resolution of interference problems. An examination of our records, however, revealed very few registered interference complaints in the Radiolocation Service. The companies that commented in the proceeding all agree that interference is a relatively minor problem, especially since the radiolocation community is both small and intimate. They stated that other means are normally employed to resolve interference problems, such as direction-finding or even just a general familiarity with each other's systems.

12. There is little information available on the costs that would be incurred in modifying equipment if we mandated the periodic transmission of call signs. ONI has indicated to us that at least $100,000 would be required to make the necessary modifications to only part of its equipment inventory. Moreover, all radiolocation licensees would have to alter their equipment and would incur similar costs.

13. We find that it would not be in the public interest to amend our rules to require the periodic transmission of station call signs in the Radiolocation Service. Such action would burden licensees with additional costs for dubious benefits. Interference does not appear to be a prevalent problem in this service and if interference does occur licensees appear to be able to resolve it by means other than station identification. Our present station authorization records provide an adequate data base to assist in the resolution of any interference problems. We conclude that the public interest is best served by eliminating the identification requirement for radiolocation stations operating below

[4] *Notice of Inquiry*, PR Docket No. 81-417, 46 FR 39632 (August 4, 1981).

[5] Offshore Navigation, Inc., Racal-Decca Survey, Inc., Teledyne, Inc., and Cubic Western Data.

[6] These devices are regulated under Part 15 of the Commission's Rules. An individual license is not required to operate these devices.

[7] Radio control stations are provided for in both Part 95 and Part 97 of the Commission's Rules.

[8] We also note that Federal government radiolocation stations do not typically identify their transmissions, whether operating above or below 3400 kHz.

3400 MHz. We will retain both our identification requirement for spread spectrum systems and our general authority to require identification of any radiolocation system when we find it necessary.

14. The international radio regulations require, in general, that all transmissions be capable of being identified but they recognize that the transmission of identifying signals for certain radio systems is not always possible.[9] The regulations specifically mention that the transmission of an identifying signal may not be possible over radio determination systems and radiolocation is one form of radiodetermination. The international regulations also require that transmissions not carrying identification signals be identifiable by other means.[10] The parties filing comments in this proceeding all agree that this is possible by using either radio direction-finding or simply the familiarity of their system operators with the systems of other licensees. We certainly agree that radiolocation stations can readily be located with direction-finding techniques because of the continuous nature of their transmissions. It appears, therefore, that our conclusion to exempt radiolocation stations from identification requirements is consistent with international radio law.

15. We have chosen to move directly to amend our rules with a memorandum opinion and order rather than issuing a notice of proposed rule making. The comments on ONI's petition and on the Notice of Inquiry are unanimous in their support of ONI's proposed rule amendments and urge us to move directly to an order. Thus, it appears evident that the rule change sought is non-controversial and that soliciting additional comments is unlikely to add to the factual record. Under these circumstances, we conclude that good cause has been shown, pursuant to 5 U.S.C. 553(b)(3)(B), that further notice and public comment is unnecessary.

Conclusion

16. In view of the foregoing, the Commission finds that it is in the public interest to amend the rules. Therefore, it is ordered, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective August 18, 1983, Part 90 of the Commission's Rules and Regulations is amended as set forth in the attached appendix.

[9] Radio Regulations, International Telecommunication Union, 1982 Edition, 1E, Article 25, Nos. 2055 and 2055.1.

[10] *Id.*, No. 2079.

17. It is further ordered that this proceeding is terminated. For further information, contact Michael D. Kennedy, Private Radio Bureau, (202) 634–2443.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 90—[AMENDED]

Title 47 of the Code of Federal Regulations, Part 90, § 90.425, is amended by revising paragraphs (c) (1) and (2) to read as follows:

§ 90.425 Station identification.

* * * * *

(c) *Special provisions for identification in the Radiolocation Service.* (1) Stations in the Radiolocation Service are not required to identify except upon specific instruction from the Commission or as required by (c)(2) of this section.

(2) Stations in the radiolocation service that employ spread spectrum techniques shall transmit a two-letter manufacturer's designator, authorized by the Commission on the station authorization, at the beginning and ending of each transmission and once every 15 minutes during periods of continuing operation. The designator shall be transmitted in International Morse Code at a speed not exceeding 25 words per minute, and the spread spectrum mode of operation shall be maintained while the designator is being transmitted. The identifying signal shall be clearly receivable in the demodulated audio of a narrow-band FM receiver.

* * * * *

[FR Doc. 83-19311 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 94

[Docket No. 19671; FCC 83-245]

Private Operational-Fixed Microwave Service; Various Methods of Transmitting Program Material to Hotels and Similar Locations and; Use of the Business Radio Service for the Transmission of Motion Pictures or Other Program Material to Hotels or Other Similar Points

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In May 1981 the Commission adopted a *First Report and Order* which amended the Commission's Rules to allow eligibles in the Private Operational-Fixed Microwave Service to operate private local distribution radio services to deliver products to their customers. Two parties filed petitions for reconsideration. On reconsideration, the Commission affirms its earlier decision to permit the delivery of products and services between licensees in the Operational-Fixed Service and their customers. However, the Commission also concludes that applicants seeking to distribute video entertainment materials to homes and to distribution systems which serve homes (i.e., broadcast stations, cable television systems, and MDS stations) should use frequencies in the 21.2–23.6 GHz band and higher frequency bands. The Commission is making this decision in order to expand the availability of the Operational-Fixed frequencies below 21.2 GHz to new uses such as data delivery systems while ensuring that there are frequencies available above 21.2 GHz to accommodate the demand for commercial distribution of video entertainment material.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick J. Day, Private Radio Bureau (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 94

Private operational-fixed microwave radio service, Distribution of products and services.

Memorandum Opinion and Order

In the matter of various methods of transmitting program material to hotels and similar locations and use of the Business Radio Service for the transmission of motion pictures or other program material to hotels or other similar points; Docket No. 19671.

Adopted: May 26, 1983.

Released: June 23, 1983.

By the Commission; Commissioners Dawson and Rivera concurring in the result; Commissioner Fogarty not participating; Commissioner Sharp absent.

I. Introduction

1. On May 7, 1981, the Commission adopted a *First Report and Order* in this proceeding,[1] which amended our rules to allow eligibles in the Private Operational-Fixed Microwave Service (OFS)[2] to operate private local distribution radio systems to deliver products to their customers.[3] The new

[1] *First Report and Order*, Docket No. 19671 (FCC 81–216), released May 15, 1981, 86 FCC 2d 299, 46 FR 27953 (May 22, 1981).

[2] 47 CFR 94.1 et. seq.

[3] The *First Report and Order* determined that "there appears to be a need for frequencies to distribute program material or other products and

rules permitted licensees to distribute to their customers such products as motion pictures and music, or services such as computerized information. These systems could be either fixed point-to-point or point-to-multipoint uses. Three channels in the 2.5 GHz band were made available for point-to-multipoint transmissions while other available OFS bands were designated for point-to-point transmissions.

2. In reaching our decision in the *First Report and Order*, we recognized that there was a need for frequencies to distribute program material and other products which could not be transmitted over the broadcast, common carrier, or cable television relay spectrum because of restrictions contained in the rules governing such services, and we determined that the Private Operational-Fixed Microwave Radio Service was the appropriate service to handle such requirements. Our decision stipulated that we would normally assign only one transmit channel per licensee at each location for omnidirectional operations and only one frequency along each path for directional operations. Additionally, we prohibited the use of private distribution systems for transmitting a licensee's products and services omnidirectionally to apartment house MATV systems and private homes. We determined that this restriction was necessary because we were then studying the possibility of establishing a hybrid classification for omnidirectional transmission of subscription direct-to-home programming services as part of our on-going inquiry into the regulation of direct broadcast satellites, General Docket No. 80-603.

3. The decision to allow Private Operational-Fixed licensees to deliver their products to customers represented a departure from the Commission's traditional regulation of the Private Microwave Service. Previously, OFS systems had been limited essentially to providing point-to-point communications within a single organization for conveying information and instructions related to the main business of the licensee. With adoption of the *First Report and Order*, we expanded the scope of the private service to encompass distribution links for products and services between licensees and their customers.

4. We received petitions to reconsider this decision from the Central Committee on Telecommunications of the American Petroleum Institute (API) and Cablecom Corporation (Cablecom). We also received a Petition for Clarification of the *First Report and Order* from Microband Corporation of America (Microband). [4]

II. Background

5. In 1972 Columbia Pictures Industries, Inc. (Columbia Pictures) submitted applications to establish and operate five, five-channel private operational-fixed microwave systems.[5] Columbia Pictures sought 125 MHz of contiguous spectrum in the 12.2–12.7 GHz band. It proposed to use the channels primarily for transmitting motion picture films to hotels for viewing by hotel guests. Two channels were to be used for transmitting the picture films to each subscribing hotel. The third channel was to be used to advise hotel guests of the movies which were available for viewing and the starting time of each film. The fourth channel was to be employed for advertisements and to inform guests about attractions and events in the city in which they were staying. The fifth channel was to be used for closed circuit network telecasting of conventions and meetings held at the participating hotels.

6. The Commission determined that Columbia Pictures' applications raised significant questions concerning potential competition with commercial television broadcasting and cable television and the potential siphoning of program material from "free" television. For this reason, the Commission decided to consider the issues raised by the Columbia Pictures' applications as part of a comprehensive inquiry into whether pay cablecasting, subscription TV and other new modes of transmitting program material would affect the public's receipt of motion pictures or other program material over free channels of television broadcasting. The Commission therefore issued a *Notice of Inquiry and Notice of Proposed Rulemaking Memorandum Opinion and Order* in Docket No. 19671. [6] This *Notice* asked for comments on "whether Business microwave frequencies should be used for distribution by the licensee of his product for which a charge is made (such as motion pictures, music, etc.), or his services (such as computer service) to his customers . . ." [7]

7. At the same time this inquiry regarding use of the Business microwave frequencies was started, the Commission granted Columbia Pictures' applications to the extent of permitting OFS channels to be used for the presentation of feature films and for advising hotel guests of the movies available for viewing and their starting times. The Commission, however, denied authority for the facilities to be used on a for-profit basis for carrying messages concerning attractions and events within a city, and for convention coverage.[8]

8. In denying use of the fourth and fifth channels, the Commission stated that although the services proposed to be offered on these channels might be useful to the public, "they represent a use of private microwave facilities in the Business Radio Service which we think is inconsistent with the purposes for which the Service was established." [9] In 1981 the Commission issued the *First Report and Order* in Docket 19671, which permitted private program distribution services to be offered on the Operational-Fixed Service frequencies. The 2.5 GHz band was designated as available for point-to-multipoint distribution purposes and other OFS bands were designated for fixed point-to-point systems.[10] It is this decision

services for which no provision has been made under the rules and which should be satisfied by frequencies in the OFS." The Commission concluded that "[t]he bands to be used for this purpose are the three 6 MHz channels in the 2.5 GHz band and the OFS bands above 13 GHz." 86 FCC 2d at 308.

[4] API also filed a Request for Stay of our decision. Oppositions to the Request for Stay were filed by Reuters Limited and Cablecom. Cablecom, Reuters, and the Press-Education-Government Foundation filed oppositions to API's Petition for Reconsideration. Cablecom and Reuters filed oppositions to Microband's Petition for Clarification. Reuters also opposed Cablecom's Petition for Reconsideration. Microband filed a Reply to Opposition to its Petition for Clarification, and API filed a Reply to the Opposition to its Petition. On August 14, 1981, the Commission issued a *Memorandum Opinion and Order* [FCC 81-390] denying API's Request for Stay, 87 FCC 2d 768 (1981).

[5] Columbia Pictures applied for OFS system in Atlanta, GA; Boston, MA; Dallas, TX; Las Vegas, NV, and New Orleans, LA. The Commission subsequently dismissed the application for Atlanta upon request of the applicant.

[6] *Notice of Inquiry and Notice of Proposed Rulemaking Memorandum Opinion and Order* (FCC 73-73), Docket No. 19671, adopted January 17, 1973, 39 FCC 2d 527, 38 FR 2766 (January 30, 1973).

[7] 39 FCC 2d at 532.

[8] *In Re Proposals by Columbia Pictures Industries, Inc., for Operational Fixed Station Facilities in the Business Radio Service* (FCC 73-71), adopted January 17, 1973, 39 FCC 2d 411, 412. The grant of Columbia Pictures' applications was expressly conditioned on the outcome of Docket No. 19671. According to the Commission's records, Columbia Pictures never constructed any microwave stations pursuant to this authorization and eventually requested that its licenses be terminated without prejudice.

[9] *Id.* The issue of licensing private microwave systems to provide a commercial communications service, however, is the subject of our on-going proceeding in Docket No. 19309 [*Memorandum Opinion and Order, Notice of Inquiry, and Notice of Proposed Rulemaking* (FCC 71-853), adopted August 18, 1971, 31 FCC 2d 766, 36 FR 16040 (August 20, 1971)].

[10] The *First Report and Order* also concluded that there was no purpose to be served by imposing "anti-siphoning" program restrictions on private distribution services, since all communications

which both API and Cablecom have asked us to reconsider.

III. API's Petition

9. API's Petition for Reconsideration argued that the Commission's decision was deficient because it did not include meaningful consideration of recent developments in telecommunications. Specifically, API noted that the DBS proceeding, which threatened to remove 500 MHz of spectrum from the Private Operational-Fixed Service frequencies, had not been taken into consideration in our *First Report and Order* [11] and that, in view of this potential displacement, the bands under consideration should be employed to accommodate systems which must move from the 12.2–12.7 GHz band. API maintained that eligibility to use these bands should not be expanded to accommodate new types of permissible communications by eligibles who might wish to deliver products or services, and more particularly video entertainment programming, to their customers. API maintained that alternative means of delivering such programming were available and it would impair use of this band by displaced 12.2–12.7 Ghz licensees if such new uses were permitted.

10. API also contended that the Commission's decision in the *First Report and Order* appeared to ignore the overall growth which had occurred in conventional private microwave usage between 1973 and 1981. In consideration of this growth and the finite amount of available spectrum, API argued it was inappropriate to adopt rules which expanded eligibility for use of the 2.5 GHz spectrum and which increased the applications to which these frequencies might be put.[12] Moreover, API contended, the conventional usage of private operational-fixed systems for fixed point-to-point transmission of internal licensee business would continue to expand as the cost of common carrier interexchange telecommunication services increased. API was concerned that the recent history of carrier service rate increases would only encourage more segments of the business sector to establish private communication systems for these internal communications purposes and urged the Commission to endure that sufficient spectrum remained available to accommodate this need, rather than communications of a non-internal business nature.

11. Further, API argued that the OFS spectrum above 13 GHz [13] is not satisfactory for the petroleum and natural gas industries. Safety and environmental considerations demand that microwave control systems for petroleum and natural gas pipelines operate with a reliability factor of 99.5%, and the propagation characteristics of the 18 GHz and higher bands preclude this level of reliability, API contended. In API's view, the limited reliability of these higher bands, coupled with the greater equipment costs required for operations at the higher frequencies, makes the OFS bands above 13 GHz an undesirable alternative to the 12.2–12.7 GHz band, at least for the industries noted.

12. API also maintained that a portion of the spectrum in the 2.5 GHz band should be used to meet the relatively low density point-to-point requirements of OFS licensees. Re-channelization of the 2.5 GHz spectrum, however, would be necessary to accommodate such usage. Towards this end, API previously had filed comments and reply comments in another proceeding (General Docket No. 80–112) in which the Commission is considering the reallocation of the 2.5–2.69 GHz band.[14] In its pleadings in Docket No. 80–112, API had suggested an alternative to the channeling plan which the Commission proposed. API said that if its approach were adopted the spectrum available in this band would accommodate conventional microwave systems of up to 97 channels. Thus our decision in Docket No. 19671 to permit OFS licensees to distribute video entertainment to customers at 2.5 GHz frustrated to a large extent API's hope that some OFS systems currently operating in the 12.2–12.7 GHz band could be relocated to 2.5 GHz by: (1) expanding the number of eligibles who could have access to the band, (2) refusing to reserve the band for persons displaced at 12.2–12.7 GHz, and (3) making it more difficult subsequently to re-channelize this band in light of the new systems which would be operating there as a result of the decision in Docket No. 19671. In conclusion, API noted that the decision in Docket No. 19671 was based on a record that was eight years old. API maintained that the Commission was not justified in making OFS spectrum available for what it considered to be a redundant video entertainment service. The developments enumerated above which had occurred in the eight years since the docket record was closed, API argued, necessitated reversal of our decision.

IV. Reuters' Response to API

13. In response to the issues raised in API's petition, Reuters argued that the Commission should affirm its earlier decision with respect to point-to-multipoint systems which might wish to operate in the 2.5 GHz band. Reuters supported the Commission's decision to expand the scope of the private services to include the delivery of services to licensees' customers. Reuters also noted that it proposed to provide an information distribution service which is different from the video entertainment services to which API seemed primarily to be objecting, but which would be affected equally adversely if we granted API's request. Reuters stated that API's contention regarding the need to reserve this spectrum for traditional private service uses is less than compelling in light of the lack of interest shown by conventional users in utilizing the three 6 MHz channels in the 2.5 GHz band during the eight years in which Docket No. 19671 was pending.

V. Cablecom's Response to API

14. In its opposition to API's petition, Cablecom stated that the Commission's decision to expand the scope of permissible operation in the private microwave service was desirable and served the public interest. Cablecom also noted that the Commission did not take any previously allocated spectrum away from OFS users, but merely

---

activities should be treated equally insofar as program availability was concerned. *First Report and Order* at paragraph 5, 86 FCC 2d at 303.

[11] Shortly before issuance of the *First Report and Order* in Docket 19671, the Commission adopted a *Notice of Proposed Policy Statement and Rulemaking* in the DBS proceeding, Gen. Docket 80-603 (FCC 81-161), 86 FCC 2d 719, 46 *FR* 30124, adopted April 21, 1981, released June 1, 1981. On July 14, 1982, the Commission issued a *Report and Order* (FCC 82-285), 90 FCC 2d 676, 47 *FR* 31555 (July 21, 1982), which allocated the 12.2–12.7 GHz band for use by the broadcasting-satellite service on a primary basis and provided that after 1988 private operational-fixed stations would be permitted to use 12.2–12.7 GHz frequencies only if they did not cause interference to DBS systems.

[12] As evidence of the growth in conventional OFS usage, API cited the Commission's *Report and Order* in Docket No. 20271, *In the Matter of an Inquiry Relative to Preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider Revision of the International Radio Regulations* (FCC 78–849), released December 28, 1978, 70 FCC 2d 1193.

[13] The following frequency bands above 13 GHz are available to Private Operational-Fixed licensees: 13.2–13.25 GHz, (developmental basis only), 18.36–19.04 GHz, 21.2–23.6 GHz, 31.0–31.2 GHz, and above 38.6 GHz § 94.61(b) of the Commission's Rules and Regulations, 47 CFR 94.61(b).

[14] A *Notice of Inquiry, Proposed Rulemaking and Order*, Gen. Docket No. 80–112 (FCC 80–136), released May 2, 1980, 45 FR 29323 (May 2, 1980), proposed to reallocate the 2.5–2.69 GHz band to give the Private Operational-Fixed Service licensees access to 10 channels in the band. The *Notice* proposed that the remaining 2.5–2.69 GHz channels be split among the Instructional Television Fixed Service (11 channels) and the Multipoint Distribution Service (10 channels).

removed some restrictions which had previously been applied to OFS licensees. Cablecom argued that the channels in the 2.5 GHz band had gone virtually unused for a decade while needed communication paths for the distribution of products and services were not provided. It argued that the public interest was not served by continuing to deny access to this spectrum for distribution purposes, especially in light of the history of more traditional private service users not seeking to employ the 2.5 GHz band.

15. Both Cablecom and Reuters pointed out that the use of the 2.5 GHz channels in the manner urged by API would require a basic modification of the present allocation structure for these channels. In the absence of such a modification, they maintained, API's position would not be improved, even if it were to prevail on reconsideration. They argued that the issue of channelization of this band is beyond the scope of this proceeding and should be addressed instead in Docket 80-112.

VI. Other Comments

16. Both Cablecom and the Press-Education-Government-Foundation also questioned whether the public interest would be served by preserving the 2.5 GHz band for some potential future use which may or may not develop rather than using the frequencies immediately for a service having an existing, well established demand. Both parties contended that by providing additional channels of communication, the Commission is helping to create diversity in the means of disseminating programming and also is providing relief to program originators. Finally, Cablecom maintained that any belief about an increase in private systems usage because of possible increases in intra-exchange and inter-exchange telephone service charges is pure speculation and that the *First Report and Order* did consider those events which occurred since the initiation of this rulemaking and which are of significance to the substantive content of the Order.

VII. Cablecom's Petition

17. As already pointed out, Cablecom generally supported our *First Report and Order*. It requested, however, that we reconsider three aspects of it. First, Cablecom requested that we not restrict licensees to one 6 MHz channel in the 2.5 GHz band but permit them to have two or more channels. Cablecom contended, among other things, that this restriction makes it impossible for a licensee to remain economically viable when distributing video programming and makes no sense in smaller communities. Cablecom stated that the Satellite Television Corporation's proposal for three direct broadcast satellite channels provides ample evidence that multiple channels of service are necessary for economic viability. Cablecom maintained that it is impossible to develop a system of competitive video distribution unless the operator can, in fact, equally compete, and the Commission's rules placed OFS licensees at a competitive disadvantage with respect to MDS operators. This is so, Cablecom said, because the user of an MDS channel could apply for one OFS channel in a market, thereby being able to offer two channels in the same market. The OFS licensee, by contrast, could only offer one channel.

18. Second, Cablecom requested that we lift the prohibition against directly transmitting video programming to apartment house MATV systems or private homes using the three 6 MHz channels in the 2.5 GHz band. Cablecom contended that it is inequtiable to impose this restriction on licensees in the OFS and not on MDS, cable or subscription TV systems. It maintained that transmissions utilizing OFS are not analogous to broadcasting and to regard them in such a manner is without legal foundation. Cablecom stated that by waiting to resolve this issue in General Docket No. 80-603, which is concerned primarily with the Direct Broadcast Satellite Service, we would significantly delay disposition of the matter. [15]

19. Third, Cablecom requested that we adopt revised engineering criteria which would more accurately reflect the present state of technology for the 2.5 GHz band. It noted that the quality of both transmitting and receiving equipment for this band has improved since the beginning of this proceeding, and that good engineering standards should be established to protect licensees.

VIII. Reuters' Response to Cablecom

20. In response to the matters raised in Cablecom's petition, Reuters expressed opposition to Cablecom's first and third requests. Reuters was of the opinion that the limits imposed on channel assignments to individual licensees was entirely consistent with, and required by, the statutory obligation to provide a fair, efficient, and equitable distribution of radio service enunciated in Section 307(b) of the Communications Act of 1934, as amended. Reuters stated that it is entirely appropriate for the Commission to distribute the frequencies equitably among qualified applicants, rather than to turn the entire band over to a single licensee in a particular market. Further, citing Home Box Office as an example, Reuters pointed out that single channel video services have proven to be quite profitable. Regarding Cablecom's third request, Reuters stated that the question of the development of a different set of technical standards for the 2.5 GHz band was not an issue in Docket No. 19671. [16] Reuters concluded that the adoption of entirely new technical standards would not be appropriate in this proceeding. Finally, Reuters noted that the issue of different technical standards for the 2.5 GHz band is under consideration in General Docket No. 80-113. [17]

IX. Discussion and Decision

21. The petitions for reconsideration urge us to select between diametrically opposed regulatory policies for the private services. While most of the discussion addressed the future of the 2.5 GHz band, the entire future scheme of regulation for the Private Operational-Fixed Microwave Service is at issue. API would have us restrict permissible communications to traditional uses involving purely internal communications requirements. Reuters, Cablecom, and others seek to have us reaffirm our decision to expand the scheme of regulation for this service to encompass existing and recognized communications needs which are not now being met.

22. In reaching our decision in the *First Report and Order*, we noted that the Commission has a statutory obligation to "encourage the larger and more effective use of radio in the public interest." [18] "Consequently," we said, "the Commission believes that it is in the public interest to allow the use of the OFS frequencies for distribution purposes and, more generally, to restrict as little as possible alternative uses of spectrum." [19]

---

[15] It should be noted that in the DBS *Report and Order* adopted June 23, 1982, we declined to require DBS systems to operate under a particular service classification during the developmental and experimental period of the DBS Service. We stated that, based on the experience gained during the experimental period, we could later establish DBS as a permanent service according to traditional classifications, create a new classification as dictated by public interest mandates, or retain the existing open entry policy. 90 FCC 2d at 708, 47 FR at 32568.

[16] Neither Reuters nor any other party addressed Cablecom's second point.

[17] A *Notice of Inquiry and Proposed Rulemaking* was adopted in Gen. Docket No. 80-113 on March 19, 1980 (FCC 80-137), 45 FR 29350 (May 2, 1980).

[18] 47 U.S.C. 303(g).

[19] *First Report and Order*, Docket No.19671, at paragraph 12, 86 FCC 2d at 306.

23. It has become obvious that a private program distribution service is needed if existing communications needs are to be met in a timely fashion. We base this conclusion on the enthusiastic response of applicants to our *First Report and Order*. We have received approximately 1,400 applications from about sixty different entities seeking to provide video entertainment services to hotels and other locations on the three 2.5 GHz OFS channels.

24. To date, none of the 1,400 applications have been processed, however. We have delayed processing for two main reasons. First, many of the applications are mutually exclusive with one another and until the regulatory scheme we were adopting was clarified on reconsideration, it did not prudent to embark on administrative hearings to resolve the problem of the competing applications. Second, since the 2.5 GHz channels allocated to the Operational-Fixed Service are in a band allocated predominantly for the Instructional Television Fixed Service, any OFS stations authorized in the band should not conflict with the technical standards established for ITFS (Part 74 of the Commission's Rules).[20] However, as we have already pointed out, the question of technical standards posed special concerns because the standards themselves currently are undergoing review in another ongoing docket proceeding, Gen. Docket No. 80–113. There, in a *Notice of Inquiry and Proposed Rulemaking* issued in March 1980 the Commission suggested the possibility of adopting more stringent technical standards to control spurious co-channel interference in the 2.5 GHz band. That *Notice* also suggested that improved discrimination performance standards for receivers, limitations on maximum effective radiated power, and tighter frequency tolerance might be necessary.[21] For these reasons, therefore, applications were not processed pending some resolution of the issues on reconsideration.

25. Additionally, at the time of our *First Report and Order* in Docket 19671, the character and scope of the Direct Broadcast Satellite Service was undefined. As we have stated, the Commission had adopted a *Notice of Proposed Policy Statement and Rulemaking* in Gen. Docket 80–603 less than a month before adopting the *First Report and Order* in Docket 19671.[22] Thus, while we had identified the 12.2–12.7 GHz band as the spectrum likely to be used for DBS,[23] we had not determined how much of the spectrum would be devoted to the new service and, hence, the extent of the impact on OFS licensees in the 12.2–12.7 GHz band was unknown. The Direct Broadcast Satellite Service *Notice of Proposed Policy Statement and Rulemaking* stated "(b)ecause we do not yet know the demand for DBS or its ultimate spectrum needs, we will attempt to accommodate interim DBS systems with as little disruption as possible to the terrestrial users now in the 12 GHz band."[24]

26. It now appears that the Direct Broadcast Satellite Service will require the full 500 MHz of spectrum in the 12.2–12.7 GHz band. We have determined, therefore, that the DBS service should have sole primary status in the 12 GHz band after 1988.[25] As a result, most OFS licensees now using the 12.2–12.7 GHz band will have to move to other frequencies within the next five years. The accommodation of these users, therefore, is of serious concern to us.[26]

27. We think there is some merit to Cablecom's arguments that licensees should not necessarily be confined to a single channel if their need is greater. However, we also agree with Reuters that the number of channels available at 2.5 GHz is so small as to require some equitable distribution of frequencies among applicants. In light of all these considerations, we have reviewed carefully the petitions and comments before us. On reconsideration we affirm our earlier decision to amend the Private Operational-Fixed Microwave rules to permit the delivery of products and services between licensees and their customers. We feel that our mandate to study and accommodate the larger and more effective use of radio in the public interest is clear, and to the extent that our decision allows presently unmet communications requirements to be satisfied we affirm its correctness. However, we also conclude that some modification of our earlier *Report and Order* is appropriate.

28. When adopting the *First Report and Order* in this proceeding, the Commission concluded that video entertainment distribution on an omnidirectional basis should be limited to the three OFS channels at 2.5 GHz. This decision was based on our determination that video entertainment distribution would not be feasible in most of the other OFS bands due to the heavy occupancy of those bands by existing point-to-point systems. Indeed, the high concentration of point-to-point microwave links for industrial, public safety, business and educational purposes in the bands 1.85–1.99 GHz, 2.13–2.15 GHz, 2.18–2.2 GHz, 2.45–2.5 GHz, and 6.525–6.875 GHz continues to make these bands unattractive for purposes of distributing video entertainment programming. We also do not think the bands at 13.2–13.25 GHz and 18.36–19.04 GHz should be made available at this time for video entertainment distribution services since this spectrum is already under consideration as likely alternatives for accommodating the OFS licensees who will be displaced from 12.2–12.7 GHz by the Direct Broadcast Satellite Service.[27] However, congestion is not a problem in the 21.2–23.6 GHz band. There we could accommodate many more entertainment systems than is possible at 2.5 GHz. We could also allow multiple channels per applicant in the event that a requirement for more than one channel could be shown. After considering this matter, therefore, we feel there is merit to modifying our earlier decision by designating the 21.2–23.6 GHz band and higher OFS bands as the appropriate locus for the operation of these private service systems which would deliver video entertainment products to their customers. Moreover, since there is little existing use of this band, neither point-to-point nor point-to-multipoint operational methods should adversely affect existing systems in this band. This decision also has the further benefit of maintaining the availability of the lower bands for displaced 12.2–12.7 GHz licensees, while at the same time expanding the availability of the 2.5 GHz band to such new uses as data delivery systems. In a separate action taken today in Gen. Docket 80–112, we are allocating an additional eight channels in most cities for the

[20] Section 94.65(f) of the Commission's Rules and Regulations.

[21] *Notice of Inquiry and Proposed Rulemaking*, Gen. Docket No. 80–113, paragraphs 44–54, 45 FR 29350 (May 2, 1980).

[22] See footnote 11.

[23] *Notice of Proposed Policy Statement and Rulemaking*, Gen. Docket 80–603, at paragraph 2, 86 FCC 2d at 720.

[24] *Id.* at paragraph 4.

[25] *Report and Order*, Gen. Docket 80–603, at paragraph 67, 90 FCC 2d at 702, 47 FR at 31506.

[26] A *Notice of Proposed Rulemaking* which considered the issue of how to accommodate displaced 12 GHz users was adopted in Gen. Docket 82–334 on January 13, 1983 (FCC 83–2), 48 FR 6730. This *Notice* proposed to make spectrum available at 2 GHz, 6 GHz, 13 GHz, and 18 GHz by increasing the sharing among private radio, common carrier, broadcast, and cable TV services and by adjusting certain technical parameters.

[27] Video entertainment in the only other private operational-fixed microwave spectrum below 21.2 GHz, the 928–929 and 952–960 MHz bands, is not feasible because the bandwidths available cannot accommodate video transmissions.

Multipoint Distribution Service.[28] We feel that the increased number of channels for the MDS service, coupled with the licensing of private video entertainment services in the OFS bands above 21.2 GHz, should be adequate to accommodate the existing demand for commercial distribution of video entertainment material.

29. We recognize, however, that the OFS systems which will be established to distribute products and services other than video entertainment may not completely use the three 2.5 GHz channels in every market. While we seek to create an environment in which applicants who propose to distribute products and services other than video entertainment will have an adequate opportunity to establish distribution systems at 2.5 GHz, we also want to ensure that the potential of the 2.5 GHz channels is fully exploited. If subsequent developments show that the demand for data and other information distribution systems in some areas can be satisfied with less than three channels, we feel it is in the public interest to make the frequencies available for video entertainment purposes as well. We think this dual goal of encouraging the growth of information distribution systems and promoting the full utilization of the spectrum can be achieved best by adopting rules which, first, designate a reasonable time period in which we will issue licenses only for applicants proposing to distribute material other than video entertainment and, second, upon expiration of the time period established, open up the frequencies for distribution of video entertainment material. We think that two years is a reasonable period of time to set aside for this purpose. Accordingly, for a two-year period commencing August 1, 1983, we will not authorize any private video entertainment distribution systems at 2.5 GHz. After this two-year period has elapsed, we will authorize the operation of video entertainment distribution systems.[29]

30. We will, consistent with the rules adopted here, act on applications in the Private Microwave Service which request the use of frequencies below 21.2 GHz and do not involve the delivery of video entertainment directly to customers or to the ultimate customer delivery system. This means that, during the interim two-year period discussed above, the operators of private distribution systems in the OFS bands below 21.2 GHz will only be permitted to distribute to their customers material which is not video entertainment. This, we feel, is consistent with our objective of accommodating existing unmet communications needs while at the same time assuring that the existing and projected uses of frequencies in the lower OFS bands are satisfied. In the OFS frequencies above 21.2 GHz, we will allow licensees to deliver any of their own products or services to any receiving location, including hotels, apartment house MATV systems, and private residences.

31. Both the growth of the more traditional microwave uses and the displacement of systems at 12.2–12.7 GHz are of great concern to us. However, we do not view either of these as reasons not to accommodate expanding communications needs. We have indicated our intention to explore the matter of the efficient and effective use of certain of the bands above 1 GHz and the staff is, in fact, now doing so.[30] We expect to consider, in the near future, the general question of the growth in the use of microwave and how it may be satisfied as well as the more specific question of the accommodation of systems displaced from the 12.2–12.7 GHz band. Part and parcel of this is the appropriateness of particular bands for particular types of needs. We affirm, however, that those matters do not constitute an impediment to the accommodation of existing, unmet communications needs as identified and resolved herein.[31]

32. Our decisions today affirms our determination that it is in the public interest to permit licensees in the Private Operational-Fixed Microwave Service to distribute their own products and services to their customers, and we will allow this in all bands allocated for OFS use. However, we are modifying our earlier decision by designating a two-year period during which licensees in the Private Operational-Fixed Microwave Service will be precluded from using their facilities to deliver video entertainment material in bands other than those above 21.2 GHz. This, combined with the Commission's decision in Docket No. 81–794 authorizing licensees of Auxiliary Broadcast facilities to sell their excess capacity on a private carrier basis and our decision in General Docket 80–112 to allocate additional channels for MDS should assure that adequate spectrum is available for video distribution services, while at the same time accommodating present and future requirements for other types of private microwave systems.

33. Implementation of this decision requires that we develop a coherent and manageable approach to the approximately 1,400 applications now on file for the 2.5 GHz band. The innumerable variations among these applications greatly increases the complexity of the task before us. There are pending applications for entertainment distribution systems which were filed long before the Commission's 1981 decision permitting OFS frequencies to be used for such purposes. Some of these applications date back to 1975. There are applications filed after the 1981 *First*

---

[28] *Report and Order and Further Notice of Proposed Rulemaking* in General Docket 80–112 (FCC 83–243), —— FCC 2d —— (1983).

[29] The *First Report and Order* in Docket No. 19671 noted that the Commission had initiated an inquiry into the desirability of establishing a "hybrid" classification for multipoint transmission of subscription direct-to-home programming services as part of the direct broadcast satellite proceeding (Gen. Docket No. 80–603). Further, the *First Report and Order* announced that the Commission would not license point-to-multipoint OFS microwave facilities to transmit programming directly to apartment house MATV systems or private homes, pending resolution of the direct-to-home programming issue. 86 FCC 2d 311. In the *Report and Order* adopted June 23, 1982 in Docket 80–603, the Commission declined to adopt a permanent service classification to govern direct broadcast satellite systems during the developmental stage of the service. 90 FCC 2d 708–09.

While we have deferred making any decision regarding the possible need for a hybrid classification for experimental direct-to-home DBS programming, we see no similar need to defer a decision with respect to the classification of entertainment programming transmitted by OFS licensees. Due to the more limited, point-to-multipoint nature of the signals which will be transmitted, the licensing of program distributors in the OFS does not prompt the same regulatory concerns as with the nationwide DBS Service. Therefore, we see no further need to await a decision which later might be made in Docket 80–603 regarding the appropriate regulatory classification for experimental BDS systems.

There is clear precedent for determining that the OFS entertainment services are not "broadcasting." We recognize that the programming content of OFS entertainment service offerings may be very similar to the content of conventional "free" broadcast services. Unlike conventional broadcasting services, however, the OFS services are "addressed" communications intended for, and directed to, specific points of reception—the licensee's paying customers, in a manner similar to subscription FM radio services. Thus, OFS entertainment transmissions would fall within the category of "hybrid" communications, i.e., exhibiting characteristics of both broadcasting and point-to-point services. See *WFTL Broadcasting Company*, 45 FCC 2d 1152, 1153–54 (1974); see also *Chartwell Communications Group v. Westbrook*, 637 F.2d 459, 465 (1980). As such, the services are not required to comply with the statutory provisions applicable to traditional broadcasting services. In reaching this determination, we rely on our established administrative discretion to exempt hybrid services from those statutory provisions. *See Greater Washington Educational Telecommunications Association, Inc.*, 49 FCC 2d 948 (1974).

[30] *Notice of Proposed Rulemaking* in Gen. Docket 82–334.

[31] With regard to the question of the possible re-channelization of the 2.5 GHz band, this is the subject of a separate proceeding (Gen. Docket 80–112) and will not be addressed further here.

Report and Order which seek to use the same frequencies as those applied for by other applicants during the period 1975–1980. Some pending applications propose to distribute video entertainment material directly to homes and apartment houses, even though this was expressly prohibited in the *First Report and Order*. Other applications propose to use two and sometimes three of the 2.5 GHz OFS channels, despite the fact that the *First Report and Order* specifically limited licensees to one transmit channel at each location. Of those remaining applications which appear to comply with the rules adopted in 1981, most do not detail the specific type of product or program material to be transmitted to their customers. In this environment, it would be impossible to resolve equitably the problems posed by the numerous competing applications. If we strictly apply the cutoff procedures detailed in § 1.227(b)(4) of the Commission's Rules, applicants who filed after the May 1981 *First Report and Order* would have little chance of being licensed for the 2.5 GHz channels in the areas sought by applicants who filed before in 1981 decision. However, this approach would unfairly reward those who submitted applications to distribute data and program material to their customers even before the Commission determined that such uses of the OFS frequencies should be sanctioned.

34. Moreover, though the failure of applicants to describe specifically the type of program material to be carried on their proposed systems was not a problem under the terms of the 1981 decision, it is now essential, in order for us to implement the decisions we are here reaching, to know what type of material licensees intend to distribute to their customers. Thus, with our decision to preclude the distribution of video entertainment material for a two-year period, the nature of the information we need from applicants changes significantly. Furthermore, whereas our 1981 decision left intact the rules governing emission standards for the 2.5 GHz OFS channels, we are now changing the rules to permit licensees to use emission types which are more compatible with the transmission of data. Previously, OFS licensees at 2.5 GHz were restricted to the use of A5 and F3 classes of emission. In this decision, however, we remove these restrictions and permit licensees to use other types of emissions, consistent with efficient use of the spectrum and good engineering practices. This change, therefore, also alters the nature of the information which we will require from licensees.

35. Our preliminary analyses show that virtually all of the 1,400 pending applications would have to be revised in one way or another to be acceptable under the rules we are now adopting. The process of scrutinizing each individual application now on file for defects, notifying each applicant of the defects, and receiving, logging, and filing the amendments submitted for each of the 1,400 applications would severely tax the capabilities of the application processing staff. Therefore, recognizing that our decision significantly changes the operating rules for private OFS distribution systems at 2.5 HGz and in light of the overwhelming burden which would be placed on our staff resources by processing amendments to the existing applications, we have determined that it is necessary to dismiss all of the pending applications for 2.5 GHz distribution systems. We will open a new filing period for applicants who seek to use the 2.5 HGz OFS channels for the distribution of products and services other than video entertainment material. This filing period will begin on August 1, 1983. Beginning on that date, we will accept for filing all applications for 2.5 GHz distribution systems which are consistent with the terms of this decision. We will strictly apply the cutoff procedures detailed in § 1.227(b)(4) of the Commission's Rules to all 2.5 GHz applications which are filed in response to this decision. This means that there will be a new 60-day filing period opened up for competing applications for each of the three 2.5 GHz channels in each locale, commencing with the first such application which we accept for filing in each area. We will select among mutually exclusive applications through use of a lottery as provided for in the *Second Report and Order* in General Docket No. 81–768.[32] We will normally assign only one point-to-multipoint transmit channel per licensee at each location.

36. We will begin processing immediately applications for private distribution services in the 21.2–23.6 GHz band which are consistent with the rules we are now adopting for that band. As announced in the *First Report and Order*, we will normally assign only one transmit channel or frequency along each path for directional operations, absent a showing justifying a greater spectrum requirement.

37. We will begin accepting applications for video entertainment distribution systems at 2.5 GHz on August 1, 1984. Any such applications filed on or after August 1, 1984 will compete on an equal basis for unassigned 2.5 GHz channels with all timely applications for data and information distribution systems which may be filed on or after August 1, 1984. Beginning with the applications filed on August 1, 1984, then, we will assign 2.5 GHz channels in accordance with the procedures set out in §§ 1.227 and 1.972 of the Rules, irrespective of the type of material which applicants propose to distribute. However, applicants filing for 2.5 GHz channels on or after August 1, 1984 will still be subject to the two-year prohibition on video entertainment distribution and therefore may not commerce operation of a video entertainment distribution system at 2.5 GHz until August 1, 1985.

X. Other Matters

A. Petition for Clarification of Processing Procedures

38. After the adoption of our *First Report and Order*, Microband Corporation filed a Petition for Clarification in which it sought to ascertain how we would treat applications for private distribution services which had been filed before we adopted the *First Report and Order*. Several of the applications for program distribution services now on file were submitted long before we amended Part 94 to permit licensees to distribute products and programs. Microband was concerned that the cut-off procedures which govern applications in the Operational-Fixed Service[33] would be applied in such a way as to foreclose applicants who filed after the *First Report and Order* from being considered for the same frequencies requested by the early applicants. Having determined that it is necessary to return all the applications previously submitted for the 2.5 GHz band, we find that the issues raised by Microband Corporation are moot and need not be given further consideration.

B. Regulatory Flexibility Act

39. The Regulatory Flexibility Act of 1980 does not apply to rules adopted after January 1, 1981 when the underlying notice of proposed rulemaking was adopted before that date. The underlying Notice of Proposed Rulemaking for this proceeding was adopted January 17, 1973. Accordingly,

[32] See new rule § 1.972, adopted March 31, 1983 in the *Second Report and Order* in Docket No. 81–768 (FCC 83–114). —— FCC 2d —— (1983).

[33] Section 1.227(b)(4) of the Commission's Rules and Regulations, 47 CFR 1.227(b)(4).

there is no need for certification under the Regulatory Flexibility Act. See 5 U.S.C. 601.

XI. Ordering Clauses

40. In view of the foregoing, it is ordered that Part 94, 47 CFR Part 94, is amended as shown in the attached Appendix, effective August 1, 1983. The authority for this action is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303.

41. It is further ordered, That the Petitions for Reconsideration filed by Cablecom Corporation on June 15, 1981 and by the Central Committee on Telecommunications of the American Petroleum Institute on June 22, 1981 are denied, and that the Petition for Clarification filed by Microband Corporation of America is dismissed as moot.

42. It is further ordered, 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

Chapter I, Part 94 of Title 47 of the Code of Federal Regulations is hereby amended as follows:

1. Section 94.3 is amended by adding the definition for "Video Entertainment Material" to read as follows:

§ 94.3 Definitions.

* * * * *

Short Haul System. * * *

Video Entertainment Material. The transmission of a video signal (e.g. United States Standard Monochrome or National Television Systems Committee 525-line television) and an associated audio signal which is designed primarily to amuse or entertain, such as movies and games.

2. Section 94.9 is amended by revising paragraphs (a)(1), (b)(2) and (b)(3) to read as follows:

§ 94.9 Permissibility of communications.

(a) * * *

(1) The licensee's own communications, including the transmission of the licensee's products and information services to the licensee's customers, except that the distribution of video entertainment material to customers on the frequencies below 21,200 MHz shall be permitted only as indicated in § 94.61(b).

* * * * *

(b) * * *

(2) Transmission of program material for use in connection with broadcasting, except that:

(i) the facilities may be used to transmit program material from one location to another, provided that the operational-fixed frequencies do not serve as the final link in the chain of distribution of the program material to broadcast stations.

(ii) the facilities of closed circuit educational television systems that have been licensed to educational institutions may be utilized for the transmission of program material to noncommercial educational broadcast stations, provided that the use of the facilities exclusively for carrying such program material shall be less than 50 percent of their total use during any one year of the license period, no charge either direct or indirect shall be made for such use, and licensees shall submit reports with their applications for renewals showing the breakdown of usage in terms of primary and alternate uses during each year of the license term.

(iii) in the frequency bands above 21,200 MHz, OFS licensees may deliver any of their own products or services to any receiving location.

(3) To provide the final link in the chain of transmission of program material to cable television systems, multipoint distribution systems, or master antenna TV systems, except in the frequency bands above 21,200 MHz.

3. Section 94.25 is amended by adding a new paragraph (k) to read as follows:

§ 94.25 Filing of applications.

* * * * *

(k) During the period August 1, 1983–July 31, 1984, no applications proposing to establish private video entertainment distribution systems in the 2.5–2.69 GHz band will be accepted for filing.

4. Section 94.31 is amended by adding a new paragraph (j) to read as follows:

§ 94.31 Supplemental information to be submitted with application.

* * * * *

(j) When an applicant proposes to distribute its own products or services to customers using operational-fixed frequencies in the bands below 21,200 MHz, a statement which specifically describes the nature of the products or services to be distributed.

5. Section 94.61(b) is amended by revising existing footnotes 3 and 15, removing existing footnotes 20 and 21, adding new footnotes 20, 21, 22, and 23, and amending the Frequency Band table to read as follows:

§ 94.61 Applicability.

* * * * *

(b) Frequencies in the following bands are available for assignment to stations in the Private Operational-Fixed Microwave Service:

Frequency Band (MHz)	
928–929	(19) and (20).
952 to 960	(1) and (20).
1850 to 1990	(2) and (15).
2130 to 2150	(2) and (21).
2150 to 2160	([3]).
2160 to 2200	(2) and (21).
2450 to 2500	(4) and (21).
2500 to 2690	(5) and (22).
6525 to 6575	(15).
6575 to 6625	(2) and (15).
6625 to 6875	(2), (6) and (15).
12,200 to 12,500	(2) and (21).
12,500 to 12,700	(2), (6) and (21).
13,200 to 13,250	(9), (14), (16) and (21).
18,360 to 19,040	(8), (10), (17) and (21).
21,200 to 22,000	(10), (11), (12), (13) and (23).
22,000 to 23,600	(10), (12), (13) and (23).
31,000 to 31,200	(9) and (23).
38,600 to 40,000	(9), (18) and (23).
Bands above 40,000	(16) and (23).

* * * * *

[3] Frequencies in this band are shared with stations in the Multipoint Distribution Service (Part 21). These frequencies may be used for the transmission of the licensee's products and information services, excluding video entertainment material, to the licensee's customs.

* * * * *

[15] This band is not available to persons and entities whose sole basis for eligibility in the Private Operational-Fixed Microwave Service is established under § 90.75(a)(1) relating to the Business Radio Service (Part 90). Persons and entities eligible for this band may use these frequencies for the point-to-point transmission of their products and information services, excluding video entertainment material, to their customers.

* * * * *

[20] The frequencies in this band which are allocate for Part 94 multiple address systems are available for point-to-multipoint transmission of the licensee's products and information services, excluding video entertainment material, to the licensee's customers. Other frequencies in this band are available for the point-to-point transmission of the licensee's products and information services, excluding video entertainment material, to the licensee's customers.

[21] This band is available for radio systems to be used for the point-to-point transmission of the licensee's products and information services, excluding video entertainment material, to the licensee's customers.

[22] This band is available for radio systems to be used for the point-to-multipoint transmission of the licensee's products and information services to the licensee's customers. However, this band may not be used for the distribution of video entertainment material prior to August 1, 1985.

[23] This band is available for radio systems to be used for the point-to-point transmission

of the licensee's program material or services to the licensee's customers.

6. Section 94.65 is amended by revising the tables in paragraph (a)(1) and adding footnote 6 to read as follows:

§ 94.65 Frequencies.

* * * * *

(a) * * *

(1) * * *

PAIRED FREQUENCIES (MHz)

Remote transmit	Master transmit
928.0125	6 * 952.0125
928.0375	6 * 952.0375
928.0625	6 * 952.0625
928.0875	6 * 952.0875
928.1125	6 * 952.1125
928.1375	6 * 952.1375
928.1625	6 * 952.1625
928.1875	6 * 952.1875
928.2125	6 * 952.2125
928.2375	6 * 952.2375
928.2625	6 * 952.2625
928.2875	6 * 952.2875
928.3125	6 * 952.3125
928.3375	6 * 952.3375
928.3625	6 * 952.3625
928.3875	6 * 952.3875
928.4125	6 * 952.4125
928.4375	6 * 952.4375
928.4625	6 * 952.4625
928.4875	6 * 952.4875
928.5125	6 * 952.5125
928.5375	6 * 952.5375
928.5625	6 * 952.5625
928.5875	6 * 952.5875
928.6125	6 * 952.6125
928.6375	6 * 952.6375
928.6625	6 * 952.6625
928.6875	6 * 952.6875
928.7125	6 * 952.7125
928.7375	6 * 952.7375
928.7625	6 * 952.7625
928.7875	6 * 952.7875
928.8125	6 * 952.8125
928.8375	6 * 952.8375

UNPAIRED FREQUENCIES (MHz)

6 928.8625	6 * * 956.2625	6 959.8625
6 928.8875	6 * * 956.2875	6 959.8875
6 928.9125	6 * * 956.3125	6 959.9125
6 928.9375	6 * * 956.3375	6 959.9375
6 928.9625	6 * * 956.3625	6 959.9625
6 928.9875	6 * * 956.3875	6 959.9875
	6 * * 956.4125	
	6 * * 956.4375	

* * * * *

[6] Available for radio systems to be used for the point-to-multipoint transmission of the licensee's products or services, excluding video entertainment material, to the licensee's customers.

* * * * *

7. Section 94.69 is revised to read as follows:

§ 94.69 Types of emission.

Stations in this service will authorized any type of emission, method of modulation, and transmission characteristic, consistent with efficient use of the spectrum and good engineering practice, except that type B, damped-wave emission will not be authorized.

8. Section 94.71 is amended by removing paragraph (f) and by revising paragraph (b) to read as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) The maximum bandwidth which will be authorized per frequency assigned is set out in the table which follows. (Regardless of the maximum authorized bandwidth specified for each frequency band, the Commission reserves the right to issue a license for less than the maximum bandwidth if it appears that a lesser bandwidth would be sufficient to support an applicant's intended communications.)

Frequency band MHz	Maximum authorized bandwidth
928–929 MHz	25 kHz 1, 7.

* * * * *

[PR Doc. 83-19280 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 82-727; RM-4044; FCC 83-297]

Amateur Radio Service; Revise the Procedures for Determining Eligibility for the Novice Class Amateur Radio Operator License

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document amends the Amateur Radio Service Rules to eliminate Commission mailing of Novice Class written examinations. This action is necessary in order to streamline application processing, and to conserve Commission clerical time. The effect of this action is to decrease the delay before a Novice applicant can begin operating.

DATE: Effective August 31, 1983.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

List of Subjects in 47 CFR Part 97

Radio.

Report and Order

In the matter of Amendment of Part 97 of the Commission's Rules to Revise the Procedures for Determining Eligibility for the Novice Class Amateur Radio Operator License; PR Docket No. 82-727, RM-4044.

Adopted: June 29, 1983.

Released: July 12, 1983.

By the Commission: Commissioner Fogarty not participating.

Introduction

1. On October 21, 1982, the Commission adopted a Notice of Proposed Rulemaking (47 FR 51901; November 18, 1982) proposing to amend the Amateur Radio Service Rules, Part 97, to eliminate the mail-back procedure in certifying applicants for the Novice Class amateur radio operator license. Comments on the proposal were due February 15, 1983, and reply comments were due March 15, 1983. Twenty comments were filed in support of the proposal. Three comments opposed the proposal.

Background

2. The Commission's proposal stemmed from a petition for rule making (RM-4044), filed December 10, 1981, by Dennis M. Dutton, P.O. Box 507, Nunda, New York 14517. Mr. Dutton requested amendment of the Commission's Rules to permit the amateur radio operator who gives the Novice telegraphy test (Element 1 (A)) also to grade the Novice written examination (Element 2. Mr. Dutton believes that adoption of this procedure would have a salutary effect on the examiners who get the Novice amateur applicants ready for their examinations, and that it would also have the virtue of getting Novice operators on the air sooner than under the present licensing procedure for Novice applicants.

3. Pursuant to the present provisions of § 97.28(b) of the Commission's Rules, the Novice Class operator license examination is given by an examiner selected by the applicant. The examiner must be 18 years of age or over, not related to the applicant, and the holder of an Amateur Extra, Advanced or General Class operator license. The examiner first gives the telegraphy examination (Element 1 (A)) to the applicant. If the applicant passes the 5 words per minute code test, he/she then submits a license application (Form 610) to the Commission's office in Gettysburg, Pennsylvania. Simultaneously with the application, the examiner must submit a written request to Gettysburg for the written examination papers (Element 2). The examination papers, either completed or unopened, must be returned by the examiner to Gettysburg within 60 days. Under this procedure, completed written

tests are graded by Commission personnel at Gettysburg and successful applicants are issued a Novice license. We proposed to shortcut this procedure by allowing the examiner to prepare, give and grade the Novice examinations. Applications of applicants who passed the examinations would be sent to the Commission at Gettysburg for issuance of the license.

Discussion

4. The preponderance of the comments favored eliminating the procedural step whereby written examinations must be requested by the examiner from the Commission and mailed back to the examiner. However, the persons commenting did not support that portion of the proposal which would allow individual examiners to prepare examination questions without some kind of Commission approval of the questions. One commenter did suggest that the examiner should prepare the questions, and have the Commission approve them; another thought that the American Radio Relay League should draft the questions. Most commenters felt that the Commission, in the interest of uniformity, should prepare a large reservoir of questions from which examiners could create individual examinations. They felt that such an approach would insure standardized examinations and make certain that Novice applicants understood the amateur rules and elementary radio theory. We believe that this is a sound approach and have incorporated it into these rule amendments. The Commission-prepared questions will be contained in PR Bulletin 1035A which we will issue and have available at our field offices.

5. In our proposal, we require that the examiner certify that he/she is not related to the Novice applicant. In its comments, the Capitol Hill Amateur Radio Society (CHARS) recommended that an additional restriction be considered for addition to § 97.28(b) to the effect that no examiner may administer a Novice Class examination to an applicant with whom, or for whom, the examiner is employed. CHARS says that "work relationships in many instances present at least the appearance of compromise if not greater likelihood of compromise similar to the appearance of familial relationships causing compromise. . . ". We believe that the point is well taken, and have included, as a prohibition, employer-employee and employee-employee relationships among those persons who may not act as examiners. CHARS also suggested that Novice examinations be included under the volunteer examiner program proposed in PR Docket 83-27 (adopted January 20, 1983; 48 FR 8090, February 25, 1983). However, as stated in the Notice of Proposed Rule Making in that proceeding, Novice examinations do not need the structured safeguards that are necessary for examinations of the higher classes of operator licenses. Therefore, at this time, we will not include Novice exams in the broader volunteer examiner program. We may consider doing so at a later date after evaluating the success of the broader program.

6. In its comment, the Amateur Radio Research and Development Corporation (AMRAD) recommended that "the specific questions for a given test . . . be drawn more or less at random by a person other than the volunteer examiner or automatic process not of the volunteer examiner's design." AMRAD's suggestion is designed to preclude examiner favoritism with respect to a particular Notice applicant. AMRAD believes that if exam question selection is left to the examiner, the examiner will be tempted to fashion an "easy" exam by choosing the least difficult questions from the reservoir. We do not agree. The level of difficulty of the questions, taken as a whole, is appropriate for the Novice Class license. Thus, while there may be some slight variation in difficulty from question to question, the difference is not so great as to make it possible to create an easy exam or a hard one.

7. Several comments in this proceeding were received after the time for filing comments had closed. Because they address relevant aspects of our proposal, we will consider them. In this category are the comments of Ameco Publishing Company (AMECO). AMECO suggests that the pool of questions approved by the Commission not be made public "since making them public would cause applicants to simply memorize, in a rote manner, questions and answers without really learning the material." We believe that AMECO's concern is unwarranted. Our intention is to stockpile two hundred questions for the Novice exam. It is not likely that anyone will memorize such a formidable array of questions. However, if that feat is attempted and mastered, we do not foresee that it would compromise the examination. We are convinced that, especially at the Novice Class operator level, in the memorization process a sufficient competency in radio theory and amateur rules would unavoidably and automatically occur. AMECO, and one other commenter, Andrew Pickens, does not want the examiner to retain the completed examination papers, as we proposed, but recommended, instead, that they be forwarded to the Commission or its designee. We see no reason why the examiner should not keep completed exams for a year. We are confident that the examiners will make sure the exams are safely filed and be able to produce them should the need arise. Finally, AMECO would preclude publishers of amateur study materials from preparing or administering Novice exams. In this connection, we will adhere to the statutory provision which allows publishers to prepare, but not to administer amateur examinations. (Communications Amendments Act of 1982; Pub. L. 97-259; September 13, 1982; 96 Stat. 1087).

8. Mr. Joseph Schrabal, New York, New York, commented that it would be a burden for examiners to keep exam papers for a year. He suggested that the examiner merely record the Novice applicants' names and the dates the exams were taken. He wanted licenses forwarded to examiners, who, in turn, would deliver them to the applicants. We prefer that licenses be received directly from us, the issuing authority, rather than through an intermediary. In this way, we will emphasize to Novices that their authority comes from the Commission, not the examiner. We do not feel that the requirement for examiners to keep completed exams for one year is burdensome. On the contrary, it is less work for the examiner than Mr. Schrabal's suggestion that the examiner "must keep record of every examination bearing the name, address, date and particulars of examination of every application for a year." Moreover, whatever burden there may be to the examiner in administering the Novice Class examination, it is one which may be completely avoided. Serving as an examiner is entirely an optional and voluntary matter.

9. Mr. John R. Hills, Tallahassee, Florida, commented that 18 year olds are too young to be trusted with the responsibility of giving Novice exams. There is no easy formula which enables a regulatory body to measure an individual's maturity. We selected age 18 because it is consonant with other legislative enactments, for example, draft registration, voting age, etc.

10. The few commenters that opposed our proposal, or certain aspects of it, based their opposition, in general, on premises that there would be no uniformity in the exams given and that examinations administered by examiners would lead to abuses such as cheating or fraud. In response to these comments, we affirm our belief in the

fundamental integrity of amateur licensees. They are, as a group, dedicated to the ideals, principles and goals of amateur radio and will not sully their ranks by welcoming into it persons who do not meet the qualifications and high standards that are required of an amateur operator.

Conclusion

11. In view of the foregoing, Part 97 will be amended as discussed herein.

12. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511, December 11, 1980; 44 U.S.C. 3501) the Secretary shall forward a copy of the final rules adopted herein to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

13. It is ordered, That Part 97 is amended as set forth in the Appendix hereto. It is further ordered, That RM-4044, to the extent specified herein, is granted, and in all other respects is denied. This action is taken pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

14. It is further ordered, That these rule amendments shall become effective August 31, 1983.

15. It is further ordered, That the Secretary shall cause a copy of this Report and Order to be published in the Federal Register.

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

17. Information in this matter may be obtained by contacting Maurice J. DePont, (202) 632-4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. The heading and paragraph (b) (1), (2) and (3) of § 97.28 are revised to read, as follows:

§ 97.28 Examination administration.

* * * * *

(b) Unless otherwise prescribed by the Commission, each examination for the Novice Class operator license shall be administered by a volunteer examiner. Each written test for the Novice Class operator license shall be prepared by the examiner from PR Bulletin 1035A (latest date of issue), entitled *Questions for the Element 2 Amateur Radio Operator License Examination.*

(1) When the applicant successfully completes examination Elements 1(A) and 2, he/she shall submit an application (FCC Form 610) to the Commission's office in Gettysburg, Pennsylvania 17325. The application shall include:

(i) The name and mailing address of the volunteer examiner administering the examination;

(ii) A description of the volunteer examiner's qualifications to administer the examination;

(iii) The volunteer examiner's certification that the applicant has passed telegraphy Element 1(A) and written test Element 2;

(iv) The signature of the volunteer examiner administering the examination.

(2) Each volunteer examiner must;

(i) Hold a current General, Advanced or Amateur Extra Class operator license issued by the Commission;

(ii) Be at least 18 years of age;

(iii) Not be related to the applicant;

(iv) Not be in an employer-employee, or employee-employee, relationship with the applicant; and

(v) Not own a significant interest in, or be an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparing for obtaining amateur station operator licenses.

(3) The volunteer examiner administering the Novice examination shall be responsible for the necessary supervision of the examination. A copy of the applicant's written examination papers must be retained in the volunteer examiner's station records for one year from the date the examination is administered.

* * * * *

2. Section 97.31(b) is revised to read as follows:

§ 97.31 Grading of examinations.

* * * * *

(b) Seventy-four percent (74%) is the passing grade for written examinations. Each element required for a particular license will be graded separately. Commission personnel will grade the written examinations, except the Novice Class Element 2 written examination, which will be graded by the volunteer examiner administering the examination.

Appendix B

Until FCC Form 610 is revised to include the certifications required by Section 97.28(b)(1), the statement on the current edition of Form 610 (December, 1981) must be modified. This should be done by writing in the appropriate underlined words as shown below:

Certification

I Certify That:

1. I am unrelated to the applicant (i.e. not a spouse, parent, child, stepchild, sister, brother, aunt, uncle, niece, nephew, grandparent, grandchild, in-law, stepbrother, stepsister, stepmother, stepfather.)

2. I am at least 18 years of age.

(3.) *I have examined the applicant and he/she has passed Element 2.*

(Check One)

☐ I have examined the applicant within the past 10 days and he/she has passed the five words per minute telegraphy examination.

☐ I have examined the applicant *in Element 1(A),* since he/she claims telegraphy test credit. The original FCC Form 845, Code Credit Certificate, is attached.

☐ I have not examined the applicant *in Element 1(A),* since he/she claims telegraphy test credit. Applicant's statement is attached giving the license number, expiration date, and class of commercial radiotelegraph operator license which qualifies him/her for credit.

[FR Doc. 83-19278 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 53]

Uniform Tire Quality Grading Standards Response to Petitions

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petitions.

SUMMARY: This notice responds to three petitions filed with regard to NHTSA's suspension of treadwear grading under its Uniform Tire Quality Grading Standards (UTQGS). The first petition was a petition for rulemaking filed by Uniroyal Tire Company just prior to the issuance of the treadwear suspension. It recommended certain changes in the treadwear test procedures to reduce the high levels of test result variability which ultimately necessitated the suspension. The other two petitions

were petitions for reconsideration of the decision to suspend filed by Uniroyal and the Center for Auto Safety. Those two petitions challenged the basis for the treadwear suspension.

NHTSA has granted the petition for rulemaking, since the agency believes that the approaches Uniroyal advances for reducing test variability appear to merit further analysis. In fact, the agency had already begun research in some of the areas recommended by Uniroyal prior to receiving its petition. However, the agency is denying the two reconsideration petitions, since it believes that the basis for the suspension remains sound.

FOR FURTHER INFORMATION CONTACT: William Boehly, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740)

SUPPLEMENTARY INFORMATION: On July 12, 1982, NHTSA published a notice of proposed rulemaking seeking public comment on a possible suspension of treadwear grading under the UTQGS. See 47 FR 30084. The suspension was proposed in response to information which led the agency to tentatively conclude that unacceptably high levels of variability existed in treadwear test results, producing potentially misleading grade information for consumers.

Although many sources of this variability are known or suspected, the precise magnitude of each source is not generally known, and in some cases methods for eliminating particular sources are not known. Among the suspected sources of test variability discussed by the agency in the NPRM are errors in determining tire loads for conducting the treadwear tests, tread depth gauging errors, variation in wheel alignment settings (which appears to be a critical parameter with regard to treadwear rates), variations in driver techniques over the test course in San Angelo, Texas, and differences in the tread composition between candidate tires and the course monitoring tires (CMT's) used to account for environmental differences between tests. One additional factor leading to variation in the grading information provided to consumers is the absence of any standardized statistical procedure for manufacturers to use in assigning treadwear grades based on their test results. Manufacturers have adopted widely differing procedures for assigning treadwear grades, making comparisons of brands potentially invalid.

Comments received on the proposed suspension from the tire industry generally (although not universally) confirmed and supported the basis for the proposal. Several individuals, consumer groups, and Uniroyal argued in favor of retaining treadwear grades. On January 21, 1983, Uniroyal filed a petition for rulemaking, advancing its own proposal for modifying the treadware test procedures in an attempt to substantially eliminate the unexplained variability in the test.

On Febrauary 7, 1983, the agency published a final rule suspending treadwear grading requirements immediately, pending completion of research aimed at reducing the variability. See 48 Fed. Reg. 5690.

Subsequently, on March 9, Uniroyal submitted a second petition (a petition for reconsideration) which challenged several of the conclusions the agency reached in its February 7 final rule. Also on March 9, the Center for Auto Safety filed a petition for reconsideration challenging the legal basis for the agency's action. The agency's responses to the petitions for reconsideration as well as the petition for rulemaking are discussed separately below.

Uniroyal's Petition for Rulemaking

In its petition for rulemaking, Uniroyal suggests three changes, which it characterizes as "simple," to improve repeatability of the treadwear test. The first change involves the rotation of tires through each tire position in a test convoy of four vehicles. Under the current test procedures, tires are rotated on each test vehicle, but stay on the same vehicle throughout the test. In theory, the rotation of tires among vehicles should reduce various vehicle and driver-related sources of variability, by "leveling out" individual vehicle or driver effects. A second change recommended by Uniroyal is to run separate convoys of CMT's and candidate tires. Currently, course monitoring tires are run on one vehicle in each test convoy. Under this recommendation, NHTSA would run the convoys of course monitoring tires, and report the results to the industry for use in grading candidate tires. Uniroyal believes the current procedure to be unnecessarily burdensome, since it believes CMT's should be used solely to monitor changes in course severity, and that such changes occur very slowly. The third change in the treadwear test would be to provide for a 1600 mile break-in period for all tires, instead of the current 800 mile period. Uniroyal believes that the longer break-in period is necessary to permit tires to acquire the permanent "set" that occurs as a result of the tread ribs being pounded down by impact with the road. The longer break-in would stabilize the measured wear rate. In addition to making those three recommendations, Uniroyal also reported it had found that measuring tread wear by successive weighings of tires is considerably more accurate than the current tread depth gauging procedure and would presumably obviate the need for an extended break-in period, but recommends retaining the gauging procedure because of its "universality" and relative simplicity.

Uniroyal based its recommendations on the results of a research program it conducted. Uniroyal ran convoys of tires at different times of the day (one starting at noon and the other at midnight, to avoid any overlap). At the midpoint of the testing, the convoys were reversed, with the one previously tested during the day being run at night, and vice versa. Over 50 days of testing, the average wear rate of the tires was found to be quite constant. This leads Uniroyal to conclude that the basic wear characteristics of the test course are constant. The relative constancy of the course itself leads Uniroyal to conclude that the current procedure of running CMT's as part of each convoy is unnecessarily burdensome. Instead, it concludes, NHTSA should run convoys of CMT's to determine whether any long term changes are occurring in the course.

Uniroyal also found that certain tires exhibited a significant correlation between temperature and wear rate. Uniroyal believes that those manufacturers whose tires exhibit such a temperature coefficient of treadwear can make appropriate adjustments in assigned grades to assure that the grades can be achieved at any time during the year.

The agency agrees that the rotation of tires among test vehicles should reduce test variability. The main impediment to rotating tires under the current test methodology is the difficulty in rotating CMT's along with the candidate tires, so that a single vehicle could use a mixture of CMT's and candidate tires. CMT's are currently available in only one size for each tire construction type (radial, bias, bias belted), so that running a test vehicle with a mixture of CMT's and candidate tires of different rim sizes would be impossible. Even if the number of available CMT sizes were increased, some adjustment would be necessary to account for the fact that tires of different sizes (within a given nominal rim size) mounted on a single vehicle could generally not all be tested at the load specified in the treadwear test procedures, and would therefore not

produce comparable treadwear data. The agency has begun research aimed at developing such an adjustment procedure, but initial results have not been favorable. Preliminary results of this research conducted for the agency by Southwest Research Institute indicate that there is no single, consistent relationship between tire load, inflation pressure, and treadwear, which would facilitate making the necessary adjustment.

The approach advocated by Uniroyal to permit this rotation is to run CMT's in separate convoys from candidate tires. While this solves the problem of mixing tires of different sizes, it eliminates the possibility of continuing to use the CMT to account for environmental changes, such as temperature changes and wet miles traveled. By running CMT's as part of the same convoy as candidate tires, both types of tires are exposed to virtually the same environmental conditions. This close similarity would not exist for tires run on separate convoys at different times. An agency statistical analysis indicates that the current use of the CMT makes possible adjustments that account for approximately half of test variability due to environmental factors. This indicates that the CMT, while far from perfect in correcting for environmental changes, should be retained until a better environmental adjustment can be found.

The agency agrees that doubling the break-in period would likely reduce treadwear variability, based on preliminary results of agency research. However, the extent of this reduction is uncertain. If all tires acquire a permanent set in a similar manner, for example, the effect of the error introduced by the shorter break-in period could be negligible in relative terms, since all tire grades would be similarly affected. The agency is also concerned that permitting the extended break-in mileage to be run on courses other than the San Angelo test course (as Uniroyal suggests in its petition) could result in different initial wear rates for various manufacturers, depending on the relative abrasiveness of those other courses. The different initial wear rates could produce variability in the grades ultimately assigned. Doubling the break-in period could also increase test costs about 10 percent, according to Uniroyal.

Uniroyal also conducted a multiple regression (statistical) analysis of the data from its test program in an attempt to identify and quantify the various sources of variability associated with the treadwear test. Uniroyal believes it has "pinpointed all of the significant major causes of variability in treadwear grading" through this analysis. Uniroyal believes the major extrinsic variables affecting treadwear to be wheel position on the test vehicle, ambient temperature, miles driven during which the test course was wet, and a small barometric pressure effect. In general, the front left wheel position produced the least treadwear, and the right rear produced the most. Tire wear rates respond differently to changes in ambient temperature, depending on the tread composition of the tire. For many tires, the wear rate is relatively insensitive to temperature at typical ambient temperatures. When the test course is wet, Uniroyal found that wear rates decrease. The barometric pressure factor is apparently of uncertain significance.

NHTSA has conducted a preliminary statistical analysis of compliance test data, as well as an evaluation of the Uniroyal statistical analysis and has reached some different conclusions from Uniroyal's. A comparison of our analyses with Uniroyal's indicates that we agreed on the correlation between some variables, such as temperature and miles of driving on wet roads. However, NHTSA found that wear rates are positively correlated with such mileage, while Uniroyal found them to be inversely related.

Uniroyal's claimed accounting for test variability was much higher than NHTSA's. Uniroyal claimed to have accounted for approximately 95 percent of the test variability. When the agency recalculated the correlation coefficient ("R") of the Uniroyal data (which when squared, provides the percent accountability), we obtained a result consistent with our own analysis, with only approximately 40 percent of grade variability being accounted for. It appears that the discrepancy between the Uniroyal conclusion and NHTSA's was due to Uniroyal's use of the R value to characterize the percent accountability (rather then the correct value, R-squared) and a calculation error by Uniroyal. When the proper R-squared calculation is performed on the Uniroyal data, it becomes clear that the Uniroyal proposal will not by itself solve the treadwear test variability problem, although it may be a step in that direction. NHTSA also found that Uniroyal's tests were not subject to the full range of environmental effects. Variability was controlled in the Uniroyal tests by running convoys consecutively on the same days, for example. Running tests at different times of the year would provide an indication of the extent to which CMT's account for environmental factors.

Two secondary issues are also raised in the Uniroyal rulemaking petition. Uniroyal makes the point that measuring tire tread loss through successive weighings of the tire produces more accurate treadwear data, and NHTSA's analysis confirms this conclusion. Uniroyal also notes that weighing is more complex and does not readily produce information on estimated miles to wearout for a tire (which is necessary to assign a grade). At least for the near future, the agency agrees with this assessment. Before a rule could be adopted that incorporated weighing of tires to determine tread loss, a substantial amount of research to establish a relationship, if any, between tire weight and tread depth would have to be conducted to enable the agency to predict the wear-out point for a given tire. The agency knows of no such unique relationship. This relationship would presumably vary for each tire size, making the establishment of these relationships a burdensome task.

Another point raised by Uniroyal is that front wheel drive cars should not be used in treadwear testing, due to load distribution problems. However, the agency is aware that a growing segment of the automotive market is comprised of front wheel drive vehicles. If front wheel drive vehicles do in fact exhibit different treadwear characteristics from rear drive vehicles, treadwear grades should reflect those characteristics. Moreover, this increase in front wheel drive vehicles could also make finding rear wheel drive test vehicles for some tire sizes difficult, so that in some instances it might be necessary to test particular tire sizes only on front wheel drive vehicles.

In summary, the agency has a number of serious questions about the Uniroyal petition. In particular, it appears that rather than accounting for virtually all of the variability of the treadwear test as it claimed, the Uniroyal proposal may account for less than half of that variability. Nevertheless, certain aspects of the petition have the potential for significantly improving the repeatability of the treadwear test. The rotation of tires among vehicles in a test convoy is an example of one promising suggestion. Therefore, the agency is granting the Uniroyal petition to the extent that it will continue to evaluate the technical recommendations contained therein. Aspects found to be effective in reducing test variability will be incorporated in any NPRM to reinstate treadwear testing.

Uniroyal Petition for Reconsideration

On March 9, 1983, Uniroyal filed a petition for reconsideration of the agency's suspension decision, setting forth a wide range of objections to the analysis forming the basis for the suspension. One major argument raised by Uniroyal is that the correlation between assigned treadwear grades and NHTSA's enforcement tests (a correlation coefficient of 0.76 was calculated) is in fact quite high if certain mitigating factors are considered. In the final rule suspending treadwear grading, the agency concluded that this correlation was low and evidenced the poor repeatability of the treadwear test.

Uniroyal notes that data for certain manufacturers had correlation coefficients as low as zero, and states that considering data for these companies, which apparently have made no attempt to grade their tires based on test results, lowers the overall correlation. Uniroyal also suggests that a reason for the low correlation is that manufacturers sometimes select grades to apply to all sizes of a given tire type, even though the smaller diameter tire typically would have a shorter treadlife. In that situation, the grade assigned would reflect the poorest performing tire size. However, if NHTSA conducted an enforcement test, it might randomly select one of the larger diameters, which would typically have treadlife superior to that of the smaller tires. Finally, Uniroyal points out that the grade assigned by a manufacturer must reflect the full range of production variability of its product, by assuring that even a tire selected from the low end of the treadwear distribution would achieve the assigned grade. However, when NHTSA selects a set of tires for testing, those tires are typically selected from a single batch of production, which may be drawn from any segment of the distribution. Thus, in general, the NHTSA grade would be expected to be higher than the assigned grade, but the extent of the grade difference would vary depending on whether NHTSA happended to select one of the best batches (same size and plant of manufacture) of a particular tire line or one of the worst batches of that line.

The agency agrees that variation in grade asssignment practices by the various tire manufacturers is a significant contributor to the overall inconsistency in assigned grades, and based its suspension decision in part on this problem. The agency, in assessing the accuracy of grades assigned under the pre-suspension test procedures, cannot ignore the contribution to the overall problem of companies which do not assign grades on the basis of test results. The inconsistently assigned grades are part of the information that had been made available to consumers under the UTQGS. As noted in the final rule suspending treadwear grading, the agency's previous proposal on this subject was seriously flawed, and any procedure ultimately to be developed and adopted will likely differ from the one previously proposed to such an extent that another round of public comment would be required. See 48 FR 5698. Thus, correction of this one aspect of the overall problem cannot be made immediately.

With regard to the point that a single grade may be assigned to a variety of tire sizes with differing treadwear performance, the agency agrees that this may explain part of the poor correlation between enforcement test results and assigned grades, although the practice is not universally followed. However, this potentially wide range of tires being assigned a single grade represents an additional problem with the treadwear information provided to consumers. The agency will consider methods for reducing this problem as part of its overall effort to reduce treadwear test variability.

The agency agrees that production variability (in candidate tires and, to a lesser extent, in CMT's) is another likely explanation for the low correlation between test results and assigned grades. However, the agency believes that this is only one of many such factors. Further, the fact that production variability may partially explain the poor correlation does not mean that such variability does not present a problem in the grading process. If the extent of production variability should differ greatly from manufacturer to manufacturer, then that variability could be another factor which impairs the comparability of treadwear grade information.

Uniroyal also challenges the significance of several of the potential sources of variability cited in NHTSA's notice of proposed rulemaking on the treadwear suspension. For example, Uniroyal believes that tread depth measurement errors may be significant for daily tread loss measurements, but that by the end of a test, the overall tread loss measurement is quite accurate. It argues that weight errors associated with vehicle scales are unimportant so long as all vehicles are loaded using the same scale. Vehicle-related variability could be substantially eliminated by more precise wheel alignment specifications, Uniroyal argues, and by rotating tires among test vehicles. The use of course monitoring tires creates an unnecessary source of error. Daily temperature effects should effectively cancel out over the course of a test (typically lasting several weeks). Driver effects, convoy position, and test speeds should also average out if Uniroyal's proposed tire rotation procedure were adopted, it claims. Variation in wear rates due to wet roadways presents a problem which remains to be dealt with, Uniroyal concedes, but it believes that the significance of this factor is not great.

The agency has never claimed that the potential sources of variability cited in the treadwear suspension proposal represent a complete list of all the problems with the treadwear test procedure. If the factors cited by Uniroyal are indeed only minor sources of variability, then the magnitude of the variability in the data indicates that there must be other sources of test variability beyond those cited by the agency. Indeed, the agency's statistical analysis as well as Uniroyal's own analysis (when modified to use a standard calculation of correlation coefficients) indicate that much of the variability in the treadwear test still remains unaccounted for. The agency agrees that problems with tread depth measurement, scales, and wheel alignment appear to be readily correctible. Other problems, such as the effects of wet roads and ambient temperature variation, and the feasibility of rotating tires among test vehicles, will require further work before solutions can be implemented as part of an improved test procedure. The agency has no basis for believing that if the readily correctible problems with the test procedure were immediately corrected, the treadwear test procedure would be capable of producing adequately repeatable results. We do not believe that the data provided by Uniroyal demonstrates that Uniroyal's modified procedure would achieve a significant improvement over the current procedure. To develop any degree of confidence that Uniroyal's proposed procedure achieves a particular level of improvement, repeat tests using the modified test procedure would have to be conducted under varying test conditions. This failure to demonstrate any specific degree of improvement applies to the major procedural revision advocated by Uniroyal in its rulemaking petition as well as to the "quick fix" set forth in its reconsideration petition.

NHTSA's preliminary statistical analysis of variability also provided some further quantification of the magnitude of the treadware variability

problem. At the 95 percent confidence level, the average grade of 4 tires could shift as much as 24 percent in a retest involving successive convoys (although the shift would usually be somewhat less than this). Thus, if a test of four tires produced an average grade of 200, the most that could be said with a high level of confidence is that a repeat test would produce a result between 150 and 240 (rounded down, as specified in the test procedure). Given the significant clustering of radial tire grades, this means that the likelihood of grade rank inversion (a tire whose true treadwear performance is superior to that of another tire producing test results lower than the other tire) is also significant. Further, to be at least 95 percent confident that the test grade rank order of two different tires is valid, the compliance test difference between the tires must be at least 47 points for a typical radial tire.

Uniroyal favored a specification in the test procedure that course monitoring tires must have a low temperature coefficient for treadwear. The current course monitoring tire contains relatively high levels of natural rubber in its tread stock, thereby creating a fairly high sensitivity to ambient temperature changes. Uniroyal also favors public availability of polymer black and oil composition of the CMT tread stock to permit manufacturers to judge the temperature sensitivity of their own tires vis-a-vis the course monitoring tires. The agency agrees that this recommendation appears to have merit.

A final point made by Uniroyal with regard to the costs associated with reinstating treadwear grading is that the costs would not be great, since only improperly graded tires would have to be retested and regraded. However, it is difficult for the agency to understand how the identity of the improperly graded tires could be determined without retesting all tires.

Center for Auto Safety Petition for Reconsideration

The CFAS petition made three points. First, CFAS argues that due to the long period of time necessary to complete the agency's research activities, the suspension is actually a revocation of treadwear grading requirements. Second, it argues that revoking the treadwear requirements is unlawful, since UTQG Standards must necessarily contain treadwear grading. The third CFAS argument is that the suspension is arbitrary and capricious, since the agency failed to adopt available measures to reduce the deficiencies in the treadwear test procedure.

It is difficult to predict the likely duration of the treadwear suspension at this point. The duration of the suspension will depend on the extent of the agency's success in reducing test variability. The agency has no basis to believe that developing acceptable procedures is an impossible task, and therefore has not decided to revoke the standard permanently.

Initial results from the agency's research program in some cases have not been favorable. For example, the research regarding the feasibility of rotating tires among test vehicles has been delayed due to the agency's inability to develop a consistent mathematical relationship between tire load, inflation pressure, and treadwear. Developing this relationship is an important first step toward implementing a rotation requirement, since only a limited number of CMT sizes will be available for testing all candidate tires.

The agency has also begun research intended to determine the effect of reducing tolerances on a number of parameters, such as wheel alignment and driving techniques. Testing under this contract is approximately half complete. Depending on the success of the initial research, the agency would probably conduct a further series of tests, which would incorporate the most promising aspects of the initial research. For example, this testing might involve some form of between-vehicle tire rotation. The results of this next phase of the agency's research would permit NHTSA to determine the extent to which known methods for reducing test variablity can be used to develop an acceptable treadwear test. The agency cannot estimate when this next phase of research would be completed, or indeed whether it will be productive to conduct that research, until the results of the initial research have been fully analyzed.

CFAS's second point is that the Safety Act requires not just a UTQG system, but a system with treadwear grading. It views treadwear information as being so important to consumers that the system is valueless without that information.

There is no indication in language of the Act or in the legislative history that the UTQG system must include treadwear grading. Section 203 of the Act provides merely that the system must be designed to "assist the consumer to make an informed choice in the purchase of motor vehicle tires." The only indication in the legislative history as to Congress' motivation in requiring that the system be established is the following discussion in the House Report:

> In the course of the hearings and in discussions in executive session, it became clear to the committee that the user's and consumer's confusion as to the quality of tires is a problem of great magnitude. Although some have argued that quality grading is solely an economic problem, the committee is satisfied this is not so and that it has a direct relationship to safety. Standards as to grading are necessary to assure safety. Grading standards, as well as any other tire standards related to safety, are within the scope of the authority of the Secretary under Title I of the bill.

House Report No. 1776 (89th Congress, 2nd Sess.), p. 33.

A review of Congressional hearings which preceded the enactment of the Safety Act supports the view that Congress did not have any specific types of information requirements in mind for the tire quality grading system. One notion which is evident from the transcripts is that there are "first line" tires, "second line" tires, and so forth, and that there should be an objective basis for comparing various manufacturers' claims as to what constitutes a "first line" tire. This seems to assume that certain tires are equal to or better than others in *every* significant respect, while the current grading system is based on the premise that various performance specifications may be inversely correlated (e.g., a high treadwear tire may have poor traction). Other portions of the hearing transcripts indicate that the grading would be for safety related factors. Treadwear, however, is an economic issue. Some witnesses at the hearings did discuss treadwear, but the transcripts do not indicate that the grading system must necessarily assess any one specific parameter such as treadwear. See Senate Report 89–37 (89th Cong. 1st Session). 1965.

Tread life, temperature resistance and traction requirements were not included in the Uniform Tire Quality Grading system pursuant to any statutory requirement for the inclusion of those specific items, but because public comments on the agency's proposals revealed that those items were the ones that most interested consumers. The agency's first proposal on UTQG did not include a treadwear test. Rather, the agency proposed to grade tires for their high speed performance, endurance, road hazard resistance, and uniformity and balance. Testing was to be based on the existing FMVSS 109 tests plus an SAE recommended practice for uniformity and balance testing. The agency then anticipated that traction

and treadwear tests would be added at some unspecified time. See FR 18751, September 21, 1971. Treadwear grading was first specifically proposed in a subsequent NPRM. See 38 FR 6194, March 7, 1973. At that time, NHTSA indicated that, based on comments on the first NPRM, consumers were more interested in evaluations of tread life, traction, and high speed performance, and that grading in other areas would only cause confusion.

There are precedents for delays in implementation of certain aspects of the UTQG program based on testing and grading problems. The agency on July 17, 1978, established effective dates for tire grading standards. Despite the objections of several industry commenters, the agency did not establish an effective date for radial tires, while doing so for bias ply and bias belted tires. Arguments that there must be a comprehensive UTQG system covering all types of tires or no system at all were rejected by the U.S. Court of Appeals for the Sixth Circuit in *B. F. Goodrich* v. *Department of Transportation*, 592 F. 2d 322 (6th Cir. 1979). If practical problems can justify a delay of tire grading for certain types of tires, pending the resolution of those problems, then it is difficult to see why practical problems could not justify a suspension of one portion of the grading system, with other requirements remaining in effect.

The final point raised by the CFAS is that the agency's decision is arbitrary and capricious since it failed to consider available methods for improving the treadwear grading system, such as the establishment of a uniform grade assignment procedure. The agency did consider and discuss such methods. See 48 FR 5698, February 7, 1983. As noted above, the agency's initial grade assignment proposal was seriously flawed, and a final rule could not be adopted based on that NPRM. A new proposal is in the initial stages of development, and would be part of any group of proposed corrections to the treadwear grading regulations. The agency believes that varying grade assignment practices is a significant part of the overall unreliability of treadwear grades, but there are several other substantial problems that must be successfully addressed before the treadwear test results can be made adequately repeatable.

The agency cannot state that implementing all test procedure modifications feasible at this time would result in a test procedure capable of producing reasonably accurate and reliable results. Only about half of the sources of test variability have been accounted for, based on the agency's preliminary statistical analysis. CFAS argues that treadwear grading should continue while test procedure improvements are developed and implemented and notes that EPA's fuel economy testing and grading continued without interruption while the agency implemented test procedure corrections. However, the repeatability of the fuel economy test has been much greater than the repeatability of the treadwear test. Based on the agency's preliminary statistical analysis, treadwear test results are believed to be repeatable (in tests of successive convoys) only within a range of plus or minus 24 percent (at the 95 percent confidence level, for a test of four tires). At the 95 percent confidence level, emission test results for a single vehicle are repeatable within 3 to 4 percent. If the current treadwear system were at least minimally acceptable in its performance, making amendments without a suspension might be appropriate. However, since the system was not performing adequately, and there was no reason to believe that available corrections would result in adequate performance, NHTSA believes that suspension was the only proper action.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 112, 119, 201, 203, Pub. L. 98-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued: July 12, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-19116 Filed 7-12-83; 4:42 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte 346; Sub-7]

Railroad Exemption—Export Coal [1]

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of final rules and exemption; correction.

SUMMARY: The decision in this proceeding served June 9, 1983 (48 FR 26822, June 10, 1983) gave interested persons 30 days to comment on the question of whether the exemption of rail export coal rates should be extended to the transportation of export coal moving in all-rail service to Canada and Mexico. Canadian Pacific Limited has requested a ten (10) day extension of that deadline. That request will be granted.

DATE: The new date for the filing of comments is July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

By the Commission, Reese H. Taylor, Jr., Chairman.

Decided: July 11, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19203 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[1] This notice corrects the date on an extension of time published at 48 FR 31860, July 12, 1983.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[Docket No. 30711-127]

Inspection and Certification; Fees and Charges

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

ACTION: Rule-related notice; 1983 inspection fees.

SUMMARY: NOAA announces for fiscal year 1983 an increase of 6.7 percent in the established rates for voluntary Department of Commerce fishery product grading and certification services. The rate change is prescribed by regulation.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano, Acting Program Manager, National Seafood Inspection Program, Office of Utilization Research, National Marine Fisheries Service, Washington, D.C. 20235, Phone: 202-634-7458.

SUPPLEMENTARY INFORMATION: On October 1, 1982, the President, by Executive Order 12330 (46 FR 50921), increased the rates of basic pay for General Schedule employees by 4.0 percent. Title 50 CFR 260.81(a) requires that the hourly rates for inspection fees automatically be increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. In addition, as provided in § 260.81(b),

the hourly rates have been reviewed and reevaluated to reflect the increased costs for inspector training, equipment replacement, and other administrative expenses. Regulations at 50 CFR 260.70 authorize the Secretary of Commerce to revise the fees by publishing a notice of fee schedule changes in the **Federal Register.**

Schedule of Fees for Fiscal Year 1983

(a) Type I—Official establishment and product inspection-contract basis:

	Per hour
Regular	$23.95
Overtime	33.20
Sunday and legal holidays (2 hr. minimum)	41.45

The contracting party shall be charged at an hourly rate of $23.95 per hour for regular time; $33.20 per hour for overtime in excess of 8 hours per shift per day; and $41.45 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. Products designated in a contract will be inspected during processing at the hourly rated for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this Section.

(b) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular time	$34.50
Overtime	49.00
Sunday and legal holidays (2 hr. minimum)	63.25
Minimum fee	28.40

(1) For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$34.50 per hour. (2) For lot inspection services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum)—$49.00 per hour. (3) Sunday and national legal holidays (2 hr. minimum)—$63.25 per hour. (4) The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $28.40.

(c) Type III—Miscellaneous inspection and consultative services. (1) When any inspection or related services such as but not limited to initial and final establishment surveys, appeal inspections, sanitation evaluation, SIFE inspections, sampling product evaluation, and label and product specification review, requires charges to which the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$30.00
Overtime	40.20
Sunday and legal holidays (2 hr. minimum)	51.80
Minimum fee	22.60

(2) For miscellaneous inspection and consultative services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$30.00 per hour; for miscellaneous inspection and consultative services performed Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum)—$40.20 per hour.

(3) For miscellaneous inspection and consultative services performed on Sunday and national legal holiday (2 hr. minimum)—$51.80 per hour.

(4) The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $22.60.

(d) The following rates for inspection services in the State of Alaska reflect a cost of living allowance and additional administration costs as follows:

STATE OF ALASKA

[Area]

	Aleutian Chain (per hour)	South East and South Central Anchorage, Kenai, Juneau, Ketchikan (per hour)	Remainder of Alaska Kodiak, Bristol Bay, Dillingham (per hour)
Type I:			
Regular time	$36.00	$29.60	$31.75
Overtime	49.70	40.95	43.90
Sunday and legal holidays	61.80	51.00	54.65
Type II:			
Regular time	45.70	38.10	40.25
Overtime	63.25	53.95	57.25
Sunday and legal holidays	82.55	69.60	74.05
Minimum fee	37.60	31.35	33.10
Type III:			
Regular time	40.10	33.10	35.30
Overtime	53.30	44.25	47.70
Sunday and legal holidays	68.65	57.00	61.65
Minimum fee	35.80	29.40	31.60

(e) Fees to be charged and collected for lot, miscellaneous, and consultative inspection service furnished on an hourly basis shall be based on the actual time required to render such service including, but not limited to, the travel, sampling, and waiting time required of the inspector or inspectors in connection therewith.

(f) Analytical services: Fees for various laboratory analyses are set forth below:

Type of analyses	Fee per individual analysis
Hydrogen ion concentration	$7.03
Moisture (drying method)	14.05
Fat	14.05
Protein	14.05
Salt	28.10
Mercury	14.05
Ammonia	28.10
Histamine	28.10
Extraneous materials	28.10
Bacteriological plate count	7.03
Bacteriological direct count	7.03
Yeast and mold count	7.03
Staphylococcus	1.405
Salmonella:[1]	
Step 1	14.05
Step 2	14.05
Step 3	14.05
Coliforms, fecal coliforms, E. Coli:	
Step 1—Coliforms	7.03
Step 2—Fecal coliforms (E. coli presumptive)	7.03
Step 3—E. coli (confirmed)	7.03
Step 4—E. coli (completed)	7.03
Marine vibrios	14.05
Fishery products species determination	56.20

[1] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron agars; and Step 3—confirmatory test through biochemicals.

(1) Applicants requesting specific analyses will be charged on the basis of these fees. Charges based on these fees will be in addition to any hourly rates charged for lot miscellaneous and consultative inspection service as well as to any hourly rates charged for inspection services provided under a contract at official establishments.

(2) Fees to be charged for any analysis performed at a governmental laboratory not specifically shown in this paragraph (d) will be based on the time required to perform such analyses as shown under Type III—Miscellaneous Inspection.

(3) A surcharge of 20 percent of the total charges for analytical services will be charged for administrative purposes.

Classification

This action is taken under the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (84 Stat. 2090) and 50 CFR 260.70, Inspection and Certification, and is taken in compliance with Executive Order 12291.

(Sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C 1622, 1624, Reorganization Plan No. 4 of 1970 (84 Stat. 2090))

Dated: July 13, 1983.

J. W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 83-19343 Filed 7-15-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 138
Monday, July 18, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AEA-2]

Proposed Designation of Transition Area; Woodbridge, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area over Woodbridge Airport, Woodbridge, Virginia. A new instrument procedure (NDB-A) is being developed for the airport. This transition area will designate controlled airspace to protect aircraft using the instrument procedure.

DATES: Comments must be received on or before August 29, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airpsace Docket No. 83-AEA-2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, AEA-530, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to designate a transition area Woodbridge Airport, Woodbridge, Virginia. The proposal would designate controlled airspace commencing at 700 feet above the airport and within a radius of 6.1 miles of the center of the airport with an extension to the north-northwest approximately 9.2 miles in width and 11.6 miles in length.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition area.

The Proposed Amendment

Accordingly, pursuant ot the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by designating a new 700-foot floor transition area as follows:

Woodbridge, Virginia, New

That airspace extending upward from 700 feet above the surface within a 6.1 mile radius of 38°N 41'06"., 77 19'14" W. of Woodbridge Airport extending clockwise from a 033° bearing to a 297° bearing from the airport; within 4.6 miles each side of the 344° bearing from the Woodbridge Airport extending from the 6.1 mile radius area to 11.5 miles northwest of the airport.

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

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

Issued in Jamaica, New York, on June 16, 1983.

Irvin Mark

Acting Director, Eastern Region.

[FR Doc. 83-19143 Filed 7-15-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9162]

Amana Refrigeration, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require an Amana, Iowa manufacturer and seller of household appliances, among other things, to cease representing that only Amana microwave ovens passed independent laboratory testing conducted in 1980, and that Amana microwave ovens were rated "best quality" in a 1980 consumer survey. The agreement would prohibit misrepresentations concerning the purpose, content or conclusion of any test or survey and would require the company to maintain accurate records which substantiate and/or contradict any claim made for products covered by this order. Further, the company would be required to have a reasonable basis for all future quality, safety or comparative performance representations made for microwave ovens.

DATE: Comments must be received on or before September 16, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew Sacks, Washington, D.C. 20580 (202) 724-1524.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Appliances, Trade practices.

Before Federal Trade Commission

[Docket No. 9162]

Agreement Containing Consent Order to Cease and Desist

In the Matter of Amana Refrigeration, Inc., a corporation.

The agreement herein, by and between Amana Refrigeration, Inc., a corporation, by its duly authorized officer, hereafter sometimes referred to as respondent, and its attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Amana Refrigeration, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located in the City of Amana, State of Iowa.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, and has filed answers to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of the law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Amana Refrigeration, Inc. ("Amana"), a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any Amana microwave oven for consumer use in or affecting

commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, contrary to fact, that only Amana ovens passed independent testing conducted by an independent laboratory in 1980.

B. Representing, directly or by implication, contrary to fact, that in a consumer survey owners of nine other microwave ovens rated Amana "best quality" more often than they rated any other brand best quality, including the owners' own brand.

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any product normally sold to members of the general public for their personal or household use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the purpose, content, sample, reliability, results or conclusions of any survey or test.

B. Failing to maintain accurate records:

1. Of all materials that were relied upon by respondent in disseminating any representation covered by this order.

2. Of all test reports, studies, surveys, or demonstrations in its possession or control that contradict any representation made by respondent that is covered by this order.

Such records shall be retained by respondent for three years from the date that the representations to which they pertain are last disseminated, and may be inspected by the staff of the Commission upon reasonable notice.

III

A. It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of any microwave oven, or combination microwave and connection oven, for consumer use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, the quality and/or safety of any such product or from comparing any such product as to quality and/or safety to any product or products of one or more competitors, unless, at the time of such representation, respondent possesses and relies upon a reasonable basis for such representation, consisting of reliable and competent evidence that substantiates such representation.

Provided, however, That nothing in this part shall prohibit respondent from making any non-deceptive representation concerning the microwave oven warning label exemption program operated pursuant to 21 CFR 1030.10(c)(6)(i) and administered by the Office of Radiological Health.

B. To the extent the evidence of a reasonable basis consists of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals in the relevant area, such evidence shall be "reliable and competent" for purposes of Part III (A) only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

V

It is further ordered that respondent shall forthwirth distribute a copy of this order to each of its operating divisions and to all authorized Amana distributors.

VI

It is further ordered that respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has compiled with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Amana Refrigeration, Inc. (Amana). The Commission issued a Part III complaint against Amana on October 8, 1982.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charged Amana with disseminating advertisements containing false, misleading and unsubstantiated representations regarding Amana microwave ovens. According to the complaint, Amana microwave oven advertisements falsely claimed that in an independent test of Amana and five other brands of microwave ovens, designed to simulate a government test, only Amana ovens passed all tests. In fact, the complaint alleges, six other brands were tested and a second brand also passed all tests.

The complaint also alleged that Amana microwave oven advertisements misrepresented the results of a survey of microwave oven owners. According to the complaint, the advertisements represented that owners of nine other brands of microwave ovens rated Amana ovens "best quality." The complaint charges that, in fact, this claim is false because (i) as many or more owners of each other brand rated their own brand "best quality" as rated Amana "best quality," (ii) the vast majority of owners of other brands did not rate Amana "best quality," and (iii) results were reported for owners of only four other brands and not nine.

The complaint further alleged that Amana represented it had a reasonable basis for these claims when, in fact, it did not.

The consent order contains several provisions prohibiting future misrepresentations and unsubstantiated claims by Amana.

Part I of the order prohibits Amana from representing that only Amana ovens passed the independent tests referred to in the complaint, and from claiming that owners of nine other brands rated Amana "best quality" in the microwave oven owner survey. These provisions are intended to prohibit in the future the specific misrepresentations alleged in the complaint.

Part II of the order prohibits Amana in the future from misrepresenting the purpose, content, sample, reliability, results or conclusions of any survey or test, with regard to all products normally sold to members of the general public for their personal or household use.

Part II also requires that Amana maintain accurate records of all materials relied on in preparing or approving, and disseminating any representation covered by the order, as well as all materials that contradict the representation.

Part III of the order requires that Amana have a reasonable basis for all future representations about the quality or safety of a microwave oven, and for all claims comparing a microwave oven to that of any competitor. "Reasonable basis" is defined as reliable and competent evidence that substantiates the representation. To the extent the reasonable basis consists of evidence based on tests, research or other scientific evidence, it must be conducted and evaluated in an objective manner by qualified persons, using generally accepted procedures in the profession. Part III further provides that nothing in the Part shall prohibit Amana from making any non-deceptive representation concerning the microwave oven warning label exemption program operated by the Office of Radiological Health, U.S. Food and Drug Administration.

Parts IV–VI of the order require Amana to notify the Commission of any proposed changes in its corporate structure, to distribute copies of the order to its operating divisions, and to file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-19330 Filed 7-15-83; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[File No. 812 3115]

Foote, Cone & Belding Advertising, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Chicago, Ill. advertising agency affiliated with Amana Refrigeration, Inc., among other things, to cease representing that only Amana microwave ovens passed independent laboratory testing conducted in 1980 and that Amana microwave ovens were rated "best quality" in a 1980 consumer survey. The agreement would prohibit the agency from misrepresenting the purpose, content, or conclusion of any test or survey and would require the agency to maintain accurate records which substantiate and/or contradict any claim made for products covered by this order. Further, the agency would be required to have a reasonable basis for all future quality, safety or comparative performance representations made for microwave ovens.

DATE: Comments must be received on or before September 16, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew Sacks, Washington, D.C. 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(14)) of the Commission's Rule of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Appliances, Trade practices.

Before Federal Trade Commission

In the Matter of FOOTE, CONE & BELDING ADVERTISING, INC., a corporation.

[File No. 812 3105]

Agreement containing Consent Order To Cease and Disist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Foote, Cone & Belding Advertising, Inc., a corporation, and it now appearing that Foote, Cone & Belding Advertising, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Foote, Cone & Belding Advertising, Inc., by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Foote, Cone & Belding Advertising, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 401 N. Michigan Ave., in the City of Chicago, State of Illinois.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same

force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordeed that respondent Foote, Cone & Belding Advertising, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the avertising, offering for sale, sale, or distribution of any Amana microwave oven or Amana combination microwave and convection oven for consumer or commercial use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

A. Representing, directly or by implication, that only Amana ovens passed independent testing conducted by an independent laboratory in 1980.

B. Representing, directly or by implication, that in a 1980 consumer survey, owners of nine other brands of microwave ovens rated Amana "best quality."

II

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any product specified in Part II(C) of this Order, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the purpose, content, sample, reliability, results or conclusions of any survey, opinion, research, or test.

B. Failing to maintain records:

1. Of all materials that were relied upon in disseminating any representation covered by this order, insofar as the text of such representation is prepared, authorized, or approved by any person who is an officer or employee of respondent, or of any division, subdivision or subsidiary of respondent.

2. Of all test reports, studies, surveys, or demonstrations in its possession or control that contradict any representation made by respondent that is covered by this Order.

Such records shall be retained by respondent for three years from the date that the representations to which they pertain are last disseminatéd, and may be inspected by the staff of the Commission upon reasonable notice.

C. Part II of this Order shall apply to the following products for consumer use: all microwave ovens; all other ranges, cooktops, or ovens; all refrigerators, freezers, or combination refrigerator/freezers; all garbage compactors; all clothes washers and dryers; all air conditioners; all heating equipment and heat pumps; and all dehumidifiers.

III

A. It is further orderd that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any microwave oven, or combination microwave and convection oven, for consumer use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from representing, directly or by implication, the quality and/or safety of any such product, or from comparing any such product as to quality and/or safety to any product or products of one or more competitors, unless, at the time of such representation, respondent possesses and relies upon a reasonable basis for such representation, consisting of reliable and competent evidence that substantiates such representation.

B. To the extent the evidence of a reasonable basis consists of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals in the relevant area, such evidence shall be "reliable and competent" for purposes of Part III(A) only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

Provided, however, That in circumstances where the scientific or professional tests, analyses, research, studies, or any other evidence based on expertise of professionals in the relevant area was not directly or indirectly prepared, controlled, or conducted by respondent, it shall be an affirmative defense to an alleged violation of Part III of this order for respondent to prove that it reasonably relied on the expert judgment of its client or of an independent third party in concluding that it had a reasonable basis in accordance with Part III of this Order. Such expert judgment shall be in writing signed by a person qualified by education or experience to render the opinion. Such opinion shall describe the contents of such evidence upon which the opinion is based.

Provided further, That nothing in this Order shall be deemed to deny or limit respondent with respect to any right, defense, or other affirmative defense to which respondent otherwise may be entitled by law in a compliance action or any other action.

IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

V

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

VI

It is further ordered that respondent shall, within sixty (60) days after this Order takes effect, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VII

It is further ordered that this Order shall take effect on the day that an order

of the Commission to cease and desist in *Amana Refrigeration, Inc.*, Docket 9162, has become final and effective, and this Order shall be effective only for such period of time as the Order in Docket 9162 is effective.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Foote, Cone & Belding Advertising, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Foote, Cone & Belding Advertising, Inc. (FCB) with disseminating advertisements containing false, misleading and unsubstantiated representations regarding Amana microwave ovens. According to the complaint, Amana microwave oven advertisements falsely claimed that in an independent test of Amana and five other brands of microwave ovens, designed to simulate a government test, only Amana ovens passed all tests. In fact, the complaint alleges, six other brands were tested and a second brand also passed all tests.

The complaint also alleges that Amana microwave oven advertisements misrepresented the results of a survey of microwave oven owners. According to the complaint, the advertisements represented that owners of nine other brands of microwave ovens rated Amana ovens "best quality." The complaint charges that, in fact, this claim is false because (i) as many or more owners of each other brand rated their own brand "best quality" as rated Amana "best quality," (ii) the vast majority of owners of other brands did not rate Amana "best quality," and (iii) results were reported for owners of only four other brands and not nine.

The complaint further alleges that FCB represented it had a reasonable basis for these claims when, in fact, it did not. FCB knew or should have known that these claims were false, according to the complaint.

The consent order contains several provisions prohibiting future misrepresentations and unsubstantiated claims by FCB.

Part I of the order prohibits FCB from representing that only Amana ovens passed the independent tests referred to in the comlaint, and from claiming that owners of nine other brands rated Amana "best quality" in the microwave oven owner survey. These provisions are intended to prohibit in the future the specific misrepresentations alleged in the complaint.

Part II of the order prohibits FCB in the future from misrepresenting the purpose, content, sample, reliability, results or conclusions of any survey, opinion research or test, with regard to certain specified products. These products include: microwave ovens, ranges, cooktops, ovens, refrigerators, freezers, combination refrigerator/freezers, garbage compactors, clothes washers, clothes dryers, air conditioners, heat pumps, heating equipment, and dehumidifiers.

Part II also requires that FCB maintain accurate records of all materials relied on in preparing or approving, and disseminating any representation covered by the order, as well as all materials that contradict the representation.

Part III of the order requires that FCB have a reasonable basis for all future representations about the quality or safety of a microwave oven, and for all claims comparing a microwave oven to that of any competitor. "Reasonable basis" is defined as reliable and competent evidence that substantiates the representation. To the extent the reasonable basis consists of evidence based on tests, research or other scientific evidence, it must be conducted and evaluated in an objective manner by qualified persons, using generally accepted procedures in the profession. However, if the tests, research or their scientific evidence are not prepared by FCB, it may rely on the expert judgment of its client or a third party that the claim is substantiated, if such reliance is "reasonable."

Parts IV–VI of the order require FCB to notify the Commission of any proposed changes in its corporate structure, to distribute copies of the order to its operating divisions, and to file a compliance report. Part VII provides that the order will not take effect until a final order is issued in the Commission's case against Amana Refrigeration, Inc. (Docket No. 9162). The Commission has also accepted for public comment a consent agreement with Amana. Part VII also states that the duration of the order will be for the same period as the Amana order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-19329 Filed 7-15-83; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[File No. 831-0002]

Washington, D.C. Dermatological Society; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Washington, D.C. medical society, among other things, to cesse inhibiting competition by restricting or advising member dermatologists against the truthful advertising of their fees and services; and by declaring such activities unethical. The society would be required to remove from its Principals of Professional Conduct, constitution and bylaws, any provision which is inconsistent with the prohibitions contained in the order; and publish revised versions of these documents. The order would also require that the society take no formal action against a person charged with violating an ethical standard without first providing that person with reasonable notice of the allegations and a hearing, as well as written findings and conclusions concerning the allegations. Further, for a period of 5 years, the society would be required to provide each new member with a copy of the complaint and order in this matter.

DATE: Comments must be received on or before September 16, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/C, Timothy J. Muris, Washington, D.C. 20580. (202) 523–3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38, Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and and desist and an

explanation thereof, having been filed with accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Medical societies, Trade practices.

Before Federal Trade Commission

[File No. 831-0002]

Agreement Containing Consent Order to Cease and Desist

In the Matter of Washington, D.C., Dermatological Society, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Washington, D.C., Dermatological Society (DCDS), a corporation, and it now appearing that DCDS is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between DCDS, by its duly authorized officer and/or its attorney, and counsel for the Federal Trade Commission that:

1. DCDS is a corporation organized, existing, and doing business under and by virtue of the laws of the District of Columbia, with its mailing address at George Washington University Medical School, c/o Department of Dermatology, 2150 Pennsylvania Avenue, NW., Washington, D.C. 20037.

2. DCDS admits all of the jurisdictional facts set forth in the draft of complaint here attached.

3. DCDS waives:

(a) Any further procedural step;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify DCDS, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by DCDS that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to DCDS, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to DCDS' address stated in this agreement shall constitute service. DCDS waives any right it may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. DCDS has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. DCDS further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this order, the following definition shall apply:

A. "DCDS" means respondent Washington, D.C., Dermatological Society, its delegates, trustees, councils, committees, Board of Directors, officers, representatives, agents, employees, successors, and assigns.

II

It is ordered, That DCDS shall cease and desist from, directly or indirectly, or through any corporate or other device:

A. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising or publishing by any person of the prices, terms, or conditions of sale of dermatologic physicians' services, or of information about dermatologic physicians' facilities or equipment that are offered for sale or made available by dermatologic physicians or by any organization with which dermatologic physicians are affiliated;

B. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the solicitation, through advertisting or by any other means, of patients, patronage, or contracts to supply dermatologic physicians services, by any dermatologic physicians or by any organization with which dermatologic physicians are affiliated; and

C. Inducing, urging, encouraging, or assisting any dermatologic physician group of dermatologic physicians, or any other non-governmental organization to take any of the action prohibited by this part.

Nothing contained in this part shall prohibit respondent from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that DCDS reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited, in person solicitation of actual or potential patients, who, because of their particular circumstances, are vulnerable to undue influence.

III

It is further ordered, That DCDS shall cease and desist from taking any formal action against a person alleged to have violated any ethical standard promulgated in conformity with this Order without first providing such person with:

A. Reasonable written notice of the allegations against him or her;

B. A hearing wherein such person or a person retained by him or her may seek to rebut such allegations; and

C. The written findings or conclusions of respondent with respect to such allegations.

IV

It is further ordered, That DCDS shall:

A. For a period of five (5) years, provide each new member of DCDS with a copy of the complaint and this Order at the time the member is accepted into membership;

B. Within sixty (60) days after the Order becomes final, publish and distribute a copy of the complaint and this Order to each of its members;

C. Within ninety (90) days after this Order becomes final, remove from respondent's Principles of Professional Conduct, its constitution and bylaws, and any other existing policy statements or guidelines of respondent, any provision, interpretation, or policy statement which is inconsistent with Part II of this Order, and within one hundred and twenty (120) days after this Order becomes final, publish and distribute a copy of the revised versions of such documents, statements, or guidelines to each of its members;

D. Within one hundred twenty (120) days after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which it has complied with this Order;

E. For a period of five (5) years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Part II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any of its members; and

F. Within one year after this Order becomes final, and annually thereafter for a period of five (5) years, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Part II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any of its members.

V

It is further ordered, That DCDS shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Washington, D.C. Dermatological Society ("the Society").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint prepared for issuance by the Commission along with the proposed order alleges that the Society has engaged in an unlawful conspiracy to restrain competition among dermatologists in the greater Washington metropolitan area. The complaint alleges that the Society has prohibited its members from truthfully advertising their fees and services to the public, and from otherwise soliciting patients' business. The complaint also alleges that the Society has attempted to coerce or force individual members or prospective members into ceasing to truthfully advertise and otherwise solicit patients' business. These activities are alleged to have deprived consumers of information and to constitute unfair methods of competition and unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act.

According to the complaint, the Society is a professional association of physicians who limit their practice to dermatology, and who have passed the American Board of Dermatology's certification examination. The complaint asserts that the Society has approximately one hundred (100) members, constituting a substantial majority of the dermatologists in the greater Washington metropolitan area.

The complaint alleges that, in furtherance of the unlawful conspiracy, the Society enacted ethical restrictions that prohibit its members from advertising, among other things, the fees that they charge for their services, their methods of treatment, their professional training and experience, and any special expertise that they might have. The Society also is alleged to have threatened to deny membership to any dermatologist who is associated with a health care organization that advertises the identity, fees, or services of a physician affiliated with that organization.

The complaint alleges that truthful advertising and solicitation enables dermatologists to compete among themselves for patients on the basis of price and quality, and enables patients to select a dermatologist on the basis of price and quality. As a result of the Society's restrictions on members' advertising, consumers have been deprived of the benefits of such competition and have been deprived of information that can be used in the selection of a dermatologist.

The Proposed Consent Order

The proposed order would prohibit the Society from restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising of dermatologists' fees, services, facilities, or equipment, or the solicitation by dermatologists of patients, patronage, or contracts. It would further prohibit the Society from inducing, urging, encouraging, or assisting others to take any of the actions prohibited by the order. It contains a proviso, however, which permits the Society to formulate, adopt, disseminate to its members, and enforce reasonable ethical guidelines governing representations that the Society reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Comission Act, or uninvited, in-person solicitation of persons who, because of their particular circumstances, are vulnerable to undue influence. Consumers therefore would be able to obtain truthful information concerning dermatologists' fees and services.

The proposed order would require that the Society remove from its Principles of Professional Conduct, constitution and bylaws, policy statements, and guidelines any provision or statement which is inconsistent with the prohibitions of the order and thereafter publish revised versions of such documents, statements, or guidelines. The Society would also be prohibited from taking any formal action against a person alleged to have violated any ethical standard without first providing such person with reasonable written notice of the allegations against him or her, a hearing at which the person or a person retained by him or her may seek to rebut such allegations, and the Society's written findings or conclusions with respect to such allegations.

The proposed order would require that for five (5) years, the Society provide each new member with a copy

of the complaint and order and, sixty (60) days after the order becomes final, publish and distribute a copy of the complaint and order to each of its members. To ensure that the proposed order is obeyed, the Society would be required within one hundred twenty (120) days after the order becomes final to file a written report with the Federal Trade Commission setting forth the manner and form of its compliance. The Society would also be required, for a period of five (5) years, to make its records available to Federal Trade Commission staff and, annually for a period of five (5) years, to file a written report with the Federal Trade Commission setting forth any action taken in connection with the activities covered by the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-19028 Filed 7-15-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 17 and 18

Large Trader Reports; Proposals for Rule Amendments

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Commodity Futures Trading Commission ("the Commission") has reviewed that data it currently receives for market surveillance from members of contract markets, futures commission merchants (FCMs), foreign brokers and individual traders. For silver bullion, the Commisison has found that because of the reduction in open interest and account sizes of individual traders since January 1979 the Commission may no longer receive a satisfactory level of large trader information at all times for surveillance of maturing futures.

Accordingly, the Commission is proposing amendments to its reporting regulations under the Commodity Exchange Act, as amended ("the Act"), to lower position levels in silver bullion at which Forms 103 and 40 must be filed by traders and series '01 reports and Form 102s must be filed by members of contract markets, FCMs and foreign brokers.

The Commission is also proposing technical amendments to Rules 17.00 and 18.04. The proposed amendment to Rule 17.00 would make clear that omnibus accounts are to be reported to the Commission on a gross basis. Rule 18.04 is proposed to be amended to eliminate reference to paragraph (e) which no longer exists.

DATE: Comments on this proposed rulemaking should be submitted on or before September 19, 1983.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, Attn: Secretariat.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Associate Director, Market Surveillance Section, (202) 254-3310.

SUPPLEMENTARY INFORMATION: Reporting levels are set in various commodities to ensure that the Commission receives adequate information to carry out its market surveillance programs, which include detection and prevention of market congestion and price manipulation and enforcement of speculative limits.[1] Generally, Part 17 and 18 of the regulations require reports from members of contract markets, FCMs or foreign brokers and traders respectively when a trader holds a "reportable position," i.e., the open positions held or controlled by the trader at the close of business in any one future of a commodity traded on any one contract market equal or exceed the quantities fixed by the Commission in § 15.03(a) of the regulations. See Rule 15.00(b), 17 CFR 15.00(b) (1982).

Members of contract markets, FCMs and foreign brokers who carry accounts in which there are "reportable positions" of traders are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background concerning their trading in commodity futures and, on call by the Commission, must submit a Form 103 showing positions and transactions in the commodity specified in the call.

With respect to silver bullion, effective April 1, 1979, the Commission raised reporting levels in this commodity from 100 contracts to 250 contracts. 44 FR 18169 (March 27, 1979). At that time, total open interest in silver traded on the Commodity Exchange, Inc., and the Chicago Board of Trade exceeded 200,000 contracts on each exchange. As of May 31, 1983, however, open interest in all silver futures totalled less than 54,000 contracts on each of the two exchanges. Moreover, as the expiring contract enters the delivery month, open interest in that future drops appreciably. As a result, the Commission now receives reports on an insufficient number of traders to assure itself of effective market surveillance during this critical time period. In view of this, the Commission is proposing that the reporting level in silver be reduced from 250 contracts to 100 contracts.

The Commission is also proposing technical amendments to Commission Rules 17.00(c) and 18.04. 17 CFR 17.00(c) and 18.04 (1982). The proposed amendments to Rule 17.00(c) would set forth a requirement that omnibus accounts be reported on a gross basis. Effective August 1, 1979, the Commission adopted amendments to Parts 1 and 17 of its regulations which generally required that FCMs which carry an omnibus account report both the total open long and total open short contracts in such an account to the Commission. 44 FR 25431 (May 1, 1979). Subsequently, the Commission amended Part 17 of the regulations to set forth explicit criteria by which members of contract markets, FCMs and foreign brokers could determine whether to report accounts on a net or a gross basis. 46 FR 59960 (December 8, 1981). No explicit references were made, however, to reporting of omnibus accounts.

The Commission, therefore, is proposing to amend Rule 17.00(c) by adding a clarifying paragraph (4) which explicitly instructs FCMs to report omnibus accounts on a gross basis. The proposed amendment to Rule 18.04 removes reference to paragraph (e) which had been previously deleted.

The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")[2] requires that agencies, in proposing rules, consider the impact of those rules on small business. These amendments affect large traders, futures commission merchants and other similar entities. The Commission has defined "small entities" as used by the Commission in evaluating the impact of

[1] The following commodities are those for which Commision speculative limits are in effect: wheat, grains (including oats, barley and flaxseed), corn, soybeans, rye, eggs, cotton, and potatoes. 17 CFR 150 (1982).

[2] 5 U.S.C. 601 *et seq.*

its rule in accordance with the RFA. 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for purposes of the RFA. Thus, pursuant to Section 3(a) of the RFA (5 U.S.C. 605(b)), the Acting Chairman, on behalf of the Commission, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any firm which believes that these rules would have a significant economic impact upon its operations.

Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned for use through September 30, 1984, control number 3038–0009 to the regulations which appear herein, the series '01 reports and Forms 103, 40 and 102.

Interested members of the public may obtain a complete copy of the information collection relating to the rules contained herein by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of the proposed rule change are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, and to the OMB desk officer for the agency, Suzanne Evinger, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

List of Subjects

17 CFR Part 15

Reports—general provisions.

17 CFR Part 17

Reports by Futures commission merchants, members of contract markets and foreign brokers.

17 CFR Part 18

Reports by traders.

In the consideration of the foregoing and pursuant to its authority under Sections 4g, 4i, 5(b) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. Sections 6(g), 6(i), 7(b) and 12a(5) as amended by the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2294 (1983), the Commission is proposing to amend Parts 15, 17 and 18 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.03(a) is proposed to be amended as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity:	
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	200,000
Rye (bushels)	200,000
Barley (bushels)	200,000
Flaxseed (bushels)	200,000
Soybean oil (contracts)	100
Soybean meal (contracts)	100
Live cattle (contracts)	100
Hogs (contracts)	50
Cotton (bales)	5,000
Sugar (contracts)	100
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	100
Silver coins (contracts)	50
No. 2 heating oil (contracts)	50
Long-term U.S. Treasury bonds (contracts)	150
GNMA (contracts)	100
Three-month (13-week) U.S. Treasury bills (contracts)	50
Long-term U.S. Treasury notes (contracts)	50
Domestic certificates of deposit (contracts)	50
Three-month Eurodollar time deposit rates (contracts)	50
Foreign currencies (contracts)	100
Standard and Poor's 500 Stock Price Index (contracts)	100
New York Stock Exchange composite index (contracts)	100
All other commodities (contracts)	25

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

2. Section 17.00 is proposed to be amended by adding a new paragraph (e)(4) as follows (the introductory text of paragraph (e) is reprinted without change for the convenience of the reader):

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(e) *Gross positions.* In the following cases, the futures commission merchant, clearing member or foreign broker shall report gross long and short positions in each future of a commodity in all special accounts:

* * * * *

(4) Positions in omnibus accounts.

* * * * *

PART 18—REPORTS BY TRADERS

4. Section 18.04 is proposed to be amended by removing reference to paragraph (e) so that the introductory text reads as follows:

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable position shall file with the Commission a "Statement of Reporting Trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (d) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other than an individual, partnership, or joint tennant.

* * * * *

Issued in Washington, D.C., on July 12, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-19344 Filed 7-15-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 45

[Docket No. RM83-34-000]

Application for Authority To Hold Interlocking Positions Requiring Approval Under Section 305(b) of the Federal Power Act

Issued July 11, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is issuing a notice of proposed rulemaking that would amend 18 CFR 45.8, the application for authority to hold interlocking positions under section 305(b) of the Federal Power Act. The rule would reduce compliance burden on applicants by removing certain filing requirements from the application and revising other filing requirements in the application.

DATE: Comments are due on or before August 17, 1983.

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

SUPPLEMENTARY INFORMATION: July 11, 1983.

In the matter of an application for authority to hold interlocking positions requiring approval under section 305(b) of the Federal Power Act; Docket No. RM83-34-000; Proposed Rulemaking.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend 18 CFR 45.8, which prescribes the reporting requirements for an application to the Commission for authority to hold interlocking positions that require Commission approval under section 305(b) of the Federal Power act (FPA). The rule would amend § 45.8 in three ways. First, the rule would remove several reporting requirements from § 45.8 as unnecessary in the regulatory decision-making process. Second, it would remove other reporting requirements from § 45.8 because this information already is supplied to the Commission by other filings. Third, it would revise several reporting requirements in § 45.8 to reduce the burden on an applicant, while still supplying the Commission with all the information necessary for the Commission to act on an application.

II. Background

Section 305(b) of the FPA requires any person who wants to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility ("securities firm"), or the position of officer or director of any company supplying electrical equipment to such public utility to apply to the Commission for authority to hold the interlocking positions. In the application for authority, the applicant must show the Commission that neither public nor private interests will be adversely affected by his holding the applied for positions.

The Commission issued Part 45 of its regulations to implement the provisions of section 305(b) of the FPA. Section 45.8 of the Commission's regulations prescribes the information that an applicant for authority to hold interlocking positions must submit to the Commission.

This rulemaking is part of the Commission's ongoing program of reviewing the Commission's filing requirement in order to eliminate the burden of reporting information that is not used in decisionmaking in the regulatory process. As the result of re-evaluating the information reporting requirements of § 45.8, the Commission proposes to delete certain reporting requirements and revise other reporting requirements in order to eliminae the filing of unnecessary information and reduce the filing burden on applicants for interlocking positions.

III. Summary of Proposed Changes

The rule would amend § 45.8 in the following ways. First, in evaluating whether an applicant's holding of the applied for interlocking positions would adversely affect public or private interests, the Commission either does not use some of the information now required under § 45.8, or uses this information so seldom that the information need not be required from all applicants on a generic basis. If the Commission finds that it needs this information in reviewing an individual application, it can request the information. Therefore, this rulemaking proposes to remove from § 45.8 the following unnecessary reporting requirements: (1) The reasons why an application was not filed on a timely basis;[1] (2) any bankruptcy within the past five years of a public utility, or any affiliate thereof, with which an interlocking position would be held;[2] (3) the state and date of incorporation of a company with which an interlocking position would be held;[3] and (4) the states in which a securities firm, with which an interlocking position would be held, is doing business or is qualified to do business.[4]

Second, if an applicant already holds interlocking positions, he is required to file annually a report containing information concerning all other corporations with which he serves as a director or an officer.[5] Since the Commission already has this information, this rule would allow such an applicant not to include this information in his application.

Third, this rulemaking proposes to revise certain reporting requirements to reduce the burden on the applicant, while still supplying the necessary information to the Commission. The rule would revise the reporting requirements in the following areas. First, § 45.8 would be amended to provide that, when an application is filed for an interlocking position as a director, the applicant is required, to disclose the percentage of directors meetings that the applicant attended as a director for other companies during the past 12 months. Under the existing rule, the applicant is required to disclose detailed information on when and where all such meetings were held, listing the ones that the applicant attended.[6] Second, § 45.8 would be amended to provide that, when an application is for interlocking positions with a public utility and a securities firm, an applicant is required to disclose past dealings that occurred between the public utility and the securities firm while the applicant served as a director or an officer with the securities firm for only the most recent 36 months. Under the existing rule, the applicant is required to disclose alll past dealings that occurred between the public utility and the securities firm, while the applicant served as a director or an officer with the securities firm.[7] Third, § 45.8 would be amended to provide that, when an applicant is required to disclose an individual's address, the applicant is required to disclose only the individual's state of residence. Under the existing rule, the applicant is required to disclose the individual's full address.[8] The Commission believes that, even with these reduced reporting requirements, it would still have sufficient information to analyze and act on interlocking positions applications.

IV. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA), requires certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.

Pursuant to section 605(b) of the RFA, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

---

[1] *See* 18 CFR 45.8(a)(4).

[2] *See* 18 CFR 45.8(c)(11).

[3] *See* 18 CFR 45.8 (d)(1), (e)(1) and (f)(1).

[4] *See* 18 CFR 45.8(g)45.8(d)(2).

[5] *See* 18 CFR 45.8(g). Applicants that already hold interlocking positions annually report this information in FERC-561.

[6] *See* 18 CFR 45.8 (c)(4), (d)(4) and (e)(3). The Commission counts favorably past active participation by the applicant in management of corporations with which the applicant served as a director. It counts unfavorably past participation by the applicant only as a "dummy director" with corporations with which the applicant served as a director.

[7] *See* 18 CFR 45.8(d)(9). The Commission believes that 36 months is a sufficiently long period to determine the relationship between the securities firm and the public utility.

[8] *See* 18 CFR 45.8 (a)(1), (d)(7) and (e)(4).

V. Paperwork Reduction Act

The information collection provisions in this proposed rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980), and OMB's regulations, 48 FR 13,666, 13,694 (1983) (to be codified at 5 CFR 1320.13). Interested persons can obtain information on the proposed information collection provisions by contacting the Federal Energy Regulatory Commisson, 825 North Capitol Street NE., Washington, D.C. 20426 (Attention: Joseph H. Long, (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

The Commission invites interesteed persons to submit written data, views, and other information concerning the changes to the informational filing requirements for an application for authority to hold interlocking positions, as regulated by section 305(b) of the Federal Power Act. The Commission specifically invites all persons concered with the preparation of applications to hold interolocking positions to comment on the number of work hours and cost incurred in preparing and submitting this application. All comments in response to this notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should reference Docket No. RM83–34–000. An original and 14 copies of such comments should be filed with the Commission 30 days after publication.

All written submissions to this rulemaking will be placed in the Commission's public file and will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

(Federal Power Act, 16 U.S.C. 792–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142)

List of Subject in 18 CFR Part 45

Electric utilities.

In consideration of the foregoing, the Commission proposes to amend Part 45 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 45—[AMENDED]

§ 45.8 [Amended]

Section 45.8 is amended as follows:

1. In paragraph (a)(1), remove the word "place" and insert, in its place, the word "state".

2. Remove paragraph (a)(4).

3. Revise paragraph (c)(1) to read "Name of utility.".

4. In paragraph (c)(4), remove the words "when and where directors meetings have been held during the past 12 months and number of such meetings attended by applicant." and insert, in their place, the words "the percentage of directors meetings held during the past 12 months that were attended by the applicant, if applicable.".

5. Remove paragraph (c)(11).

6. In paragraph (d)(1), remove the words ",State, and date of incorporation (if any)".

7. Remove paragraph (d)(2).

8. Redesignate paragraphs (d)(3) through (d)(14) as paragraphs (d)(2) through (d)(13), respectively.

9. In new paragraph (d)(3), remove the words "where directors meetings are held." and insert, in their place, the words "the precentage of directors meetings attended during the past 12 months.".

10. Revise new paragraph (d)(6) to read "Names and titles of directors, officers or partners.".

11. In new paragraph (d)(8), add to the end of the last sentence the words "that occurred during the past 36 months.".

12. In paragraph (e)(1), remove the words ",State, and date of incorporation (if any).".

13. In paragraph (e)(3), remove the words "when and where directors meetings have been held during the past 12 months, and number of said meetings attended by applicants" and insert, in their place, the words "the precentage of directors meetings attended during the past 12 months.".

14. Revise new paragraph (e)(4) to read "Names and titles of directors or partners.".

15. In paragraph (f)(1), remove the words ", State, and date of incorporation (if any).".

16. In paragraph (g), before the sentence beginning with the words "Do not include" insert the words "Do not include here data that has been filed within the past 12 months in FERC–561 pursuant to § 131.31 of this chapter.".

[FR Doc. 83–19062 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[Notice No. 475; Ref: Notice No. 469]

Ingredient Labeling of Wine, Distilled Sprits, and Malt Beverages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the commet period for Notice No. 469, an additional 30 days. Notice No. 469, was published in the **Federal Register** on June 17, 1983 (48 FR 27782), to reconsider prior decisions concerning ingredient labeling regulations for alcoholic beverages. The comment period is being excluded due to a request by the Center for Science In The Public Interest.

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

ADDRESSES: Comments must be submitted to the Chief, FAA, Wine and beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Notice No. 469).

FOR FURTHER INFORMATION CONTACT: Imelda M. Kirk, Office of the Chief Counsel (202–566–7805), or Roger L. Bowling, FAA, Wine and Beer Branch (202–566–7626), Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385.

SUPPLEMENTARY INFORMATION:

Background

On June 17, 1983, ATF Published Notice No. 469, proposing to reconsider prior decisions concerning ingredient disclosure on labels of wine, distilled spirits, and malt beverages. Due to request by the Center for Science In The Public Interest, ATF is extending the comment period an additional 30 days. Although the Center had requested an extension of 60 days, the Bureau feels that 30 days is a sufficient amount of time for all interested persons to submit their comments.

Disclosure of Comments

Written comments or suggestions may be inspected by any person at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal

Building, 12th and Pennsylvania Avenue NW, Washington, DC, during normal business hours.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Approved: July 15, 1983.

W.T. Drake,

Acting Director.

[FR Doc. 83-19423 Filed 7-15-83; 10:35 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations; Navigation Closing Procedures

Correction

In FR Doc. 83-18019 beginning on page 30685, in the issue of Tuesday, July 5, 1983, in the third column in the **"SUMMARY"**, in the sixth line "Saint Lawrence" should read "St. Lawrence".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 422, 424, 426, 429, 430, 431, 432, 433, and 440

[WH-FRL-2398-8]

Availability of Data Pertaining to the Proposed Methodology for Best Conventional Pollutant Control Technology Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Availability of new information and reopening of comment period.

SUMMARY: On June 2, 1983, EPA published a Notice of Availability of new data pertaining to the methodology for establishing best conventional pollutant control technology (BCT) effluent limitations (48 FR 24742). The comment period on this data closed on July 5, 1983. EPA is now making additional, more detailed information available and is reopening the comment period to close thirty days from July 18, 1983.

DATE: Comments on this proposal must be submitted to EPA by August 17, 1983.

ADDRESS: Send comments to Ms. Renee Rico, Attn: Comments on BCT Notice of Availability, Office of Analysis and Evaluation (WH-586), U.S. EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Rico at (202) 382-5386.

SUPPLEMENTARY INFORMATION: On June 2, 1983, EPA published a Notice of Availability of new data pertaining to the methodology for establishing best conventional pollutant control technology (BCT) effluent limitations. The methodology had been proposed on October 29, 1982 (47 FR 49176). Comments on the new data were to be submitted by July 5, 1983.

The American Paper Institute (API) requested additional documentation on the new data under the Freedom of Information Act (FOIA). The documentation consisted of several items describing the development of the new data, including the entire dataset upon which the new cost curves were based. On June 10, 1983, API also requested an extension of the comment period for 60 days from the time EPA made this more detailed information available to the public. EPA received another request from a company affected by this information to extend the comment period for an additional 60 days to allow additional time to study the impact of the June 2, 1983 notice on its facilities.

After reviewing these requests, the Agency is now announcing the availability of this more detailed information and is reopening the comment period 30 days from July 18, 1983. This documentation is now available for inspection at the EPA Headquarters Library. We are also making available computer tapes containing most of the data. If you wish to obtain one of the computer tapes, call Renee Rico at (202) 382-5386. A price of $300 will be charged for each computer tape.

We believe that by reopening the comment period for 30 days instead of 60, interested parties will have sufficient opportunity to review and comment on the documents and the record supporting the new data.

Dated: July 8, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-19312 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5400

Advertized Sales; General

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to proposed rulemaking.

SUMMARY: This notice corrects an error in the proposed rulemaking concerning access to timber sales published in the **Federal Register** on June 29, 1983 (48 FR 29890). Language in the proposed rulemaking stated that it would amend Subpart 5401 of Group 5400, Subchapter E, Chapter II, Title 43 of the code of Federal Regulations by removing in its entirety the second sentence of § 5401.0-6(a). This notice corrects the proposed rulemaking by revising the proposed rulemaking to read:

PART 5401—[AMENDED]

§ 5401.0-6 [Amended]

1. Section 5401.0-6(a) is revised by removing the final sentence in its entirety.

FOR FURTHER INFORMATION CONTACT: Debbie Pietrzak, Division of Forestry (230), Bureau of Land Management 18th & "C" Street, NW., Washington, D.C. 20042, (202) 653-8864.

James M. Parker,

Acting Director.

[FR Doc. 83-19282 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81 and 83

[PR Docket No. 83-665; RM-4366; FCC 83-304]

Maritime Search and Rescue Operations by Governmental Entities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to permit state and local governmental entities to utilize certain maritime frequencies in mobile units and trailer mounted vessels when engaged in maritime search and rescue activities. This proposal is in response to a request from the Commonwealth of Virginia. The intended effect is to improve communications during maritime search and rescue operations conducted by these governmental entities.

DATES: Comments must be received on or before October 11, 1983, and reply comments must be received on or before November 10, 1983.

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

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632-7175.

List of Subjects

47 CFR Part 2

Frequency allocations, Radio, Search and rescue.

47 CFR Part 81

Coast stations, Communications equipment, Marine safety, Radio.

47 CFR Part 83

Communications equipment, Marine safety, Radio, Ship stations, Vessels.

Proposed Rulemaking

In the matter of maritime search and rescue operations by governmental entities; PR Docket No. 83-665, RM 4366.

Adopted: June 29, 1983.

Released: July 12, 1983.

By the Commission: Commissioner Fogarty not participating.

Introduction

1. The Commission proposes to amend Parts 2, 81 and 83 of its rules to facilitate maritime search and rescue operations by governmental entities. This rulemaking proceeding is in response to a petition filed on behalf of the Commonwealth of Virginia.

Background

2. The Commonwealth of Virginia has over 300 "trailered" vessels, that is, rescue boats that are carried on trailers behind state cars or trucks. The petitioner operates these vessels extensively as a "Shore Patrol" to respond to marine search and rescue calls. This vehicle-trailer-boat combination permits response to distress situations by driving to a point on shore close to the boat in distress and launching the rescue boat from that point. These distress incidents may occur in rivers and lakes within the state as well as along the coast. The Commonwealth of Virginia also operates three VHF limited coast stations to facilitate communications from shore-to-ship and from ship-to-shore.

3. Under the Commission's current rules, the shore patrol is not authorized to establish direct communications with a vessel until the rescue boat is taken from the trailer and launched into the water. This creates a problem whenever the shore patrol, still on land, is closer to the distress scene and is better equipped to respond to an accident than a waterborne craft farther away. The patrol may still need to drive some distance to the point where the boat will be launched. However, so long as the patrol is on land, the Commission's rules do not provide for communications directly with the vessel in distress. This increases the response time of the shore patrol and reduces the patrol's capability to coordinate interim, potentially lifesaving, measures before the actual rescue is made.

Petition

4. The petitioner requests that the Commission amend Part 81 of the rules to permit mobile search and rescue operations on land in the Maritime Radio Services. The suggested language of the amendment was modeled after certain Rules in the Aviation Service.[1] Three unspecified VHF frequencies were proposed to meet the communications requirement. In addition, use of the frequency 5680 kHz and another unspecified HF frequency were proposed for search and rescue scene-of-action coordination purposes, including communications between ship stations and participating land stations.

Proposal

5. In order to meet the search and rescue communication requirements of the petitioner and other governmental entities we are proposing to amend Parts 2, 81 and 83 of the rules. The proposed amendments are contained in the Appendix, and are designed to do the following:

a. Unwaterborne vessels owned by state or local governmental entities involved in search and rescue emergencies will be permitted to operate on maritime mobile frequencies.

b. Vehicles owned by state or local govermental entities and used for towing search and rescue vessels will be permitted to operate on maritime mobile frequencies for search and rescue purposes as an associated portable ship unit. Such operations will be under the authority of the ship station license with which the towing vehicle is associated and shall be in accordance with existing rule § 83.186 [2] with the following exceptions:

(1) The associated portable ship unit may be operated from shore.

(2) The following Marine VHF intership frequencies may be used:

Channel 6 (Intership Safety)
Channel 16 (Distress, Safety and Calling)
Channel 17 (State Control)
Channel 22 (Liaison, U.S. Coast Guard)

(3) Power limitation for VHF operation is 25 watts.

c. VHF channels 17 and 22 may be used for search and rescue training exercises. Use of channel 22 will be limited to communications with the U.S. Coast Guard.

(d) The Commission's rules currently provide for the use of HF frequencies 3023 kHz and 5680 kHz by land stations participating in search and rescue scene-of-action coordination. The Appendix contains the proposed updated version of this provision and also updates the "Table of Frequency Allocations" located in Part 2 of the rules.

6. This proposal provides considerable flexibility for towing vehicles operating as associated portable ship units when involved in search and rescue emergencies. VHF Channels 6 (Intership Safety) and 17 (State Control) should adequately meet the search and rescue VHF communications requirement. In addition, the frequencies 3023 kHz and 5680 kHz may be used by aircraft and ship stations for search and rescue scene-of-action coordination purposes, including communications between these stations and participating land stations. We consider that the rule amendments proposed in the Appendix will provide governmental entities with a search and rescue communications capability which will enable them to provide more efficient and effective service during maritime emergencies.[3]

7. We are proposing to limit the use of ship radio stations on land to governmental entities managing search and rescue programs in order to avoid unacceptable congestion on these heavily utilized marine frequencies. We believe these rules will provide for the needs of licensees such as the petitioner, enhance public safety, and at the same time prevent unreasonable escalation in the use of marine frequencies by vehicles on land. We fully expect that licensees would ensure that such ship stations on land would be operated in accordance with the rules. For example,

[1] The language proposed by the petitioner is derived from Subpart K (Aeronautical Search and Rescue Stations) of Part 87 (Aviation Services) of the Commission's rules, 47 CFR 87.441 through 87.443.

[2] Section 83.186 of the current rules contains the operational restrictions applicable to associated portable ship units.

[3] The Commonwealth of Virginia is currently operating under a Commission waiver issued February 18, 1983, which authorizes the Commonwealth to operate essentially within the parameters proposed by this rulemaking proceeding.

the Commonwealth of Virginia notes that its shore patrol vehicles would continue to utilize stations licensed in the Private Land Mobile Radio Services to conduct administrative communication requirements.

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeeting 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, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. The proposed amendments to the rules, as set forth in the Appendix, are issued under authority contained in Section 4(i) and 303 (a), (b), (c), and (r) of the Communications Act of 1934, as amended.

10. Under the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 11, 1983, and reply comments on or before November 10, 1983. All relevant and timely comments and reply 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 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.

11. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. This item essentially proposes rule amendments which will enable governmental entities involved in maritime search and rescue operations to construct a flexible communication plan which is responsive to their mission of providing service during maritime emergencies. Since neither new equipment nor additional reporting requirements are involved and since only governmental entities large enough to have a maritime search and rescue mission are involved, we certify, pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

13. For further questions on matters covered in this document, contact Robert E. Mickley, (202) 632-7175.

14. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106, the Table of Frequency Allocations is amended as follows: the footnote designator (205A) is added in column 7 for the bands 2850–3025 kHz, 5450–5680 kHz, and 5680–5730 kHz; the frequency 3023 is added in column 10 for the band 2850–3025 kHz; the frequency 5680 is added in column 10 for the bands 5450–5680 kHz and 5680–5730 kHz; the phrase "Aeronautical and Maritime Mobile search and rescue." is added in column 11 for the bands 2850–3025 kHz, 5450–5680 kHz, and 5680–5730 kHz; and the text of new footnote 205A is added, in proper numerical sequence, to the list of Geneva footnotes following the Table, as shown below:

§ 2.106 Table of frequency allocations.

* * * * * * *

7	8	9	10	11
*	*	*	*	*
2850-3025 (205A) (NG61).	AERONAUTICAL MOBILE (OR).	Aeronautical Aircraft	3023	AERONAUTICAL MOBILE. Aeronautical and Maritime Mobile search and rescue.
*	*	*	*	*
5450-5680 (205A) (NG61).	AERONAUTICAL MOBILE (R).	Aeronautical Aircraft	5680	AERONAUTICAL MOBILE. Aeronautical and Maritime Mobile search and rescue.
*	*	*	*	*
5680-5730 (205A)	AERONAUTICAL MOBILE (R).	Aeronautical Aircraft	5680	AERONAUTICAL MOBILE. Aeronautical and Maritime Mobile search and rescue.
*	*	*	*	*

Geneva Footnotes

* * * * * * *

(205A) The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Nos. 2980 and 2984 respectively, by stations of the maritime mobile service engaged in coordinated search and rescue operations.

* * * * * * *

PART 81—STATION ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.360, the section heading is amended by revising the upper frequency from 4000 kHz to 6000 kHz and paragraph (c) is added to read as follows:

§ 81.360 Frequencies available below 6000 kHz.

* * * * *

(c) The use of frequencies 3023 kHz and 5680 kHz are limited to search and rescue scene-of-action coordination purposes. These frequencies are available to limited coast stations licensed to governmental entities when an appropriate showing can be made with respect to their intended use. These frequencies may be used to communicate with search and rescue vessels and aircraft for scene-of-action coordination purposes using a 2.8A3J emission.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.178 is amended by revising paragraph (f) to read as follows:

§ 83.178 Unauthorized transmissions.

* * * * *

(f) Transmit signals or communications while on board vessels being transported, stored, parked or otherwise located on land. Vessels in the following type of situations are not considered to be on land for the purposes of this paragraph: (1) Vessels which are aground as a result of a distress situation; (2) Vessels in drydock undergoing repairs; and (3) Unwaterborne vessels, owned by a governmental entity, which are involved in search and rescue operations including related training exercises.

2. Section 83.186 is revised to read as follows:

§ 83.186 Operational conditions on use of associated portable ship units.

(a) Associated portable ship units may be operated under a ship station authorization. Use of an associated portable ship unit is restricted as follows:

(1) It shall be operated only on the safety and calling frequency 156.8 MHz (Channel 16), and on commercial or noncommercial VHF intership frequencies appropriate to the class of ship station with which it is associated.

(2) Except for safety purposes, it shall be used to communicate only with the ship station with which it is associated or with associated ship portable units of the same ship station but portable units may not be used from shore.

(3) It shall be equipped to transmit on Channel 16 and at least one appropriate intership frequency.

(4) Calling shall occur on Channel 16 unless by prearrangement provision is made for calling and working on an intership frequency.

(5) Power is limited to one watt.

(6) The call sign of the ship station with which it is associated and an appropriate unit designator shall be used.

(b) Vehicles, owned by a governmental entity, used for towing vessels involved in search and rescue operations are authorized to operate on maritime mobile frequencies as associated portable ship units. Such operations shall be in accordance with paragraph (a) of this section except that the associated portable ship unit may be operated from shore, may use Distress, Safety and Calling; Intership Safety; Liaison, U.S. Coast Guard; and State Control VHF intership frequencies and may use 25 watts of power.

3. In § 83.351, paragraph (a) is amended by revising the "conditions of use" for certain frequencies, as indicated, by revising paragraph (b)(45), and by adding new paragraphs (b)(49) and (b)(50) to read as follows:

§ 83.351 Frequencies available.

(a) * * *

156.850 MHz		83.359	19, 20, 26, 34, 49
*	*	*	*
157.100 MHz		83.359	3, 19, 20, 50
*	*	*	*

(b) * * *

(45) The frequencies 3023 kHz and 5680 kHz may be used by aircraft and ship stations for search and rescue scene-of-action coordination purposes, including communications between these stations and participating land stations. Ship stations communicating with aircraft stations shall employ 2.8A3J emission.

* * * * *

(49) This frequency is authorized for search and rescue training exercises conducted by governmental entities.

(50) This frequency is authorized for search and rescue training exercises conducted by governmental entities which involve U.S. Coast Guard stations. Such use is subject to prior U.S. Coast Guard approval and immediate termination at U.S. Coast Guard request.

[FR Doc. 83-19279 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2, 81 and 83

[Docket No. 83-664; FCC 83-299]

Use of Marine VHF Channel 88 in the Puget Sound Area, Eligibility for Limited Coast and Marine Utility Stations, and Deletion of all A3A Emission Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Rules by changing the use of marine VHF Channel 88 in the Puget Sound area and its approaches, within 75 miles of the U.S./Canada border. This Channel is presently available for commercial use (ship-to-ship). The commercial use has caused harmful interference to Canadian public correspondence stations near the border. Instead, it is proposed that Channel 88 be made available to ships within 75 miles of the border for public correspondence with Canadian coast stations. This action is intended to rectify the interference problem in the interest of both the Canadian and the U.S. maritime communities. This document includes two other minor proposals involving Limited Coast and Marine Utility station eligibility requirements and A3A emission specifications. This last change will remove an unnecessary regulation which presently burdens manufacturers and licensees.

DATES: Comments must be submitted on or before September 12, 1983 and replies on or before September 27, 1983.

ADDRESS: Federal Communications Commission, 1919 M St., NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, 202-632-7175.

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 81

Communication equipment, Radio, Vessels.

47 CFR Part 83

Canada, Radio, Ship stations, Vessels.

Proposed Rulemaking

In the matter of an amendment of Parts 2, 81, and 83 of the Commission's rules concerning the use of marine VHF Channel 88 in the Puget Sound area, eligibility for Limited Coast and Marine Utility stations, and

deletion of all A3A emission requirements; PR Docket No. 83–664.

Adopted: June 29, 1983.
Released: July 12, 1983.

By the Commission: Commissioner Fogarty not participating.

Ch. 88 Puget Sound

1. Marine VHF Channel 88 is authorized to be used for commercial intership communications and for communications between commercial fishing vessels and associated aircraft (e.g., fish spotting). Channel 88 consists of a frequency pair: a ship station transmit frequency (157.425 MHz) and a coast station transmit frequency (162.025 MHz). The ship station frequency, which may also be used in a simplex mode, is sometimes referred to as Channel 88A. This frequency pair is used by the British Columbia Telephone Company (B.C. Telephone Co.) for public correspondence in accordance with the international Radio Regulations.

2. On December 17, 1982, the Commission received a letter from the North Pacific Marine Radio Council (NPMRC) requesting the Commission initiate a rule making proceeding to prohibit the use of marine Channel 88A in the Puget Sound waters, within 75 miles of the border. Enclosed with this letter was a copy of correspondence from the B.C. Telephone Co. informing the NPMRC of harmful interference received on 157.425 MHz, allegedly caused by U.S. vessels which use this frequency for commercial ship-to-ship operations. To alleviate the interference problem, the Commission is proposing to prohibit the use of Channel 88A within 75 miles of the U.S./Canada border in the Puget Sound [1] waters. At the same time we propose to allow ships within this 75 mile area to use Channel 88 for public correspondence with Canadian coast stations. These proposed actions are consistent with the rules governing the use of Channel 88 in the Great Lakes and the St. Lawrence Seaway.

Limited Coast/Marine Utility Eligibility Requirements

3. In this same proceeding, the Commission is proposing to rewrite eligibility requirements for Limited Coast stations and Marine Utility stations to specifically include companies servicing radio equipment on noncommercial vessels. This change is proposed in response to numerous requests from this category of users to make them clearly eligible for licensing.

A3A Emission

4. The third change included in this proposal concerns the removal of the A3A mode of emission which is presently required in Parts 81 and 83 in our rules. Although the need for voice single sideband, reduced carrier operation is reportedly nonexistent among marine users, the Commission at present will not type accept single sideband transmitters which do not have A3A capability. Manufacturers of this equipment have requested that we remove this A3A emission requirement from Parts 81 and 83 of our rules, thereby freeing them of this unnecessary burden and the accompanying costs borne by the purchaser. However, in so proposing we would not preclude anyone from using A3A emission, or from manufacturing equipment which has this capability. We would merely be removing the requirement as part of our general effort to eliminate unnecessary and outmoded regulations.

5. The proposed amendments to the Commission's rules, as set forth in the attached Appendix, are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

6. Under procedures set out in § 1.415 of the Rules and Regulations 47 CFR 1.415, interested persons may file comments on or before September 12, 1983, and reply comments on or before September 27, 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.

7. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. 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 a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules 47 CFR 1.1231.

9. We have determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding because its effects will be to limit the use of only one channel in the Puget Sound waters. There are ten other channels available for this use, and the limitation only affects the part of the Sound within 75 miles of the U.S./Canada border. Therefore if promulgated, it will not have a significant economic impact on a substantial number of small entities. The other two changes proposed herein will have a small beneficial effect on large and small businesses alike.

10. It is ordered, that a copy of this Notice shall be sent to the Chief Counsel

[1] For purposes of this rule making proceeding, the "Puget Sound" shall be understood to include the area of the Puget Sound and the Strait of Juan de Fuca and its approaches.

for Advocacy of the Small Business Administration.

11. Regarding questions on matters covered in this document, contact Maureen Cesaitis, 202-632-7175.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS GENERAL RULES AND REGULATIONS

Section 2.106 is amended by revising footnote US223 as follows:

§ 2.106 Table of frequency allocations.

US Footnotes

* * * * *

US223 within 75 miles of the United States/Canada border on the Great Lakes, the St. Lawrence Seaway, and the Puget Sound and the Strait of Juan de Fuca and its approaches, use of coast transmit frequency 162.025 MHz and ship station transmit frequency 157.425 MHz (VHF maritime mobile service channel 88) may be authorized for use by the maritime service for public correspondence.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

§ 81.142 [Amended]

1. Section 81.142 is amended by removing paragraph (c)(3).

2. Section 81.351 is amended by revising paragraph (a)(1), adding new paragraphs (a)(7) through (a)(10), removing paragraph (b), and redesignating paragraph (c) as paragraph (b), and revising it, all to read as follows:

§ 81.351 Supplemental eligibility requirements.

(a) * * *

(1) Regularly engaged in the operation, docking, direction, servicing or management of one or more commercial transport vessels, non-commercial vessels, or United States, State or local government vessels; or is

* * * * *

(7) A person controlling public moorage facilities,

(8) A person performing the function of service and supply to vessels other than commercial transport vessels,

(9) An organized yacht club having moorage facilities, or

(10) To a nonprofit corporation or association organized to provide noncommercial communications to vessels other than commercial transport vessels.

(b) Each application for station authorization for a limited coast station or a marine-utility station shall be accompanied by a written statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.137 [Amended]

1. Section 83.137 is amended by removing paragraph (c)(3).

2. Section 83.351 is amended by revising paragraphs (b)(33) and (b)(51) to read as follows:

§ 83.351 Frequencies available.

* * * * *

(b) * * *

(33) Except within 75 miles of the United States/Canada border in the area of the Puget Sound and the Strait of Juan de Fuca and its approaches, the Great Lakes, and the St. Lawrence Seaway, available for intership and commercial communications. Except in the Puget Sound area and its approaches and the Great Lakes, also available for communications between commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

* * * * *

(51) Within 75 miles of the United States/Canada border, in the area of the Puget Sound and the Strait of Juan de Fuca and its approaches, 157.425 MHz is half of the duplex pair designated as Channel 88. In this area, Channel 88 is available for use by ship stations for public correspondence communications only.

* * * * *

3. In § 83.1012, paragraph (b) is amended by adding new language to footnotes 1 and 2, as revised they now read as follows:

§ 83.1012 (VHF Marine Rules 12) What channels may I use?

* * * * *

(b) * * *

1. Not available in the Great Lakes, the St. Lawrence Seaway, or the Puget Sound area and its approaches (including the Strait of Juan de Fuca and its approaches).

2. Only for use in Great Lakes, St. Lawrence Seaway, and Puget Sound area and its approaches.

* * * * *

[FR Doc. 83-19310 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 51 and 52

[CC Docket No. 83-666; FCC 83-305]

Proposed Elimination of Parts 51 and 52 of the Commission's Rules and Proposed Amendment of Annual Report Forms R and O

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is considering the elimination of Part 51 and Part 52 of its Rules and Regulations which prescribe the recordkeeping and reporting requirements for the classification and compensation of employees of telephone and telegraph companies. Also being considered is the elimination of two related schedules of Annual Report Forms R and O. These recordkeeping and reporting requirements are proposed for elimination because it has been tentatively decided that they are no longer needed for the Commission's regulatory purposes. The elimination of these requirements would reduce common carrier recordkeeping and reporting burdens.

DATES: Comments are due on or before August 10, 1983. Reply Comments are due on or before August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau (202) 634-1861.

List of Subjects

47 CFR Part 51

Communications common carriers, Compensation, Occupational classification, Telephone.

47 CFR Part 52

Communications common carriers, Compensation, Occupational classification, Wire-telegraph.

Proposed Rulemaking

In the matter of proposed elimination of Part 51 and Part 52 of the Commission's Rules and Regulations and the proposed amendment of Annual Report Forms R and O; CC Docket No. 83-666.

Adopted: June 29, 1983.

Released: July 11, 1983.

By the Commission: Commissioner Fogarty not participating.

I. Introduction

1. In this Notice of Proposed Rulemaking (NPRM) the Commission proposes to eliminate certain recordkeeping requirements for Class A and Class B telephone companies.

radiotelegraph carriers,[1] and wire-telegraph and ocean-cable carriers.[2] In addition, the Commission proposes to amend Annual Report Forms R and O filed by radiotelegraph and wire-telegraph and ocean-cable carriers (record carriers) by eliminating certain reporting requirements. This proposal is part of the Commission's program to reduce recordkeeping and reporting requirements for regulated companies.

II. Background

2. Part 51 and Part 52 of the Commission's Rules and Regulations prescribe the recordkeeping and reporting requirements for the occupational classification and compensation of employees of telephone and record carriers. These rules and regulations direct the manner in which a carrier maintains information on its employees and other related data for statistical count and classification purposes.

3. The record carriers submit employee information to the Commission on Schedules 408A and 408B of Annual Report Forms R and O, respectively. A similar reporting requirement for the telephone companies was recently eliminated in Docket No. 82-680, 48 FR 19373 (1983).

III. Discussion

4. We are proposing the elimination of the above mentioned recordkeeping and reporting requirements relative to the occupational classification and compensation of employees due to our changing regulatory information needs and the current emphasis on the reduction of burdensome paperwork. Our discussion of these proposals is detailed in the following paragraphs.

Part 51, Occupational Classification and Compensation of Employees of Telephone Companies; and, Part 52, Classification of Wire-Telegraph Employees

5. Part 51 and Part 52 of the Rules and Regulations prescribe the method in which regulated carriers must classify and count employees and describe other employee information which carriers must maintain. This statistical count and classification is generally to include all persons in the service of the reporting company.

6. Part 51 requires each telephone company to record and include in its annual report to the Commission each year, its employees categorized according to the occupational classifications specified. These classifications include (1) number of male emloyees; (2) number of female employees; (3) total number of employees; (4) number of scheduled weekly hours; (5) amount of scheduled weekly compensation; and (6) number of employees, other than officials and managerial assistants. Each classification is grouped according to hourly rate of pay.

7. Part 52 requires earch wire-telegraph carrier to classify and count its male and female employees separately each year as of the end of October. Each carrier is also required to maintain records, by classification, indicating the scheduled weekly hours, scheduled weekly compensation, and hourly rate of pay. Further, the carriers are required to classify employees on the basis of character of service. Character of service classifies employees in occupations that are primarily concerned with responsible policy-making, planning, supervising, coordinating, or guiding the work activities of others. These classifications include officials and managerial assistants, professional and semi-professional employees, telegraph operators and messengers.

8. We see no current FCC regulatory purpose being served by requiring the regulated carriers to continue maintaining this information. Along the same lines, we have no statutory requirement which would mandate the maintenance of these data. Therefore, we are proposing the elimination of the recordkeeping requirements of Part 51 and Part 52 of our Rules.

Schedule 408A, Employees and Their Salaries—Radiotelegraph and Ocean-Cable, of Annual Report Form R; and Schedule 408B, Employees and Their Salaries—Wire-telegraph of Annual Report Form O

9. Schedules 408A and 408B are filed by the record carriers. The instructions for both of these schedules require the reporting of all persons, by sex, in the service of the carriers, including temporary, occasional, extra and similar employees. Also, the instructions require the reporting of weekly hours and compensation for those employees by employee category. The information contained in these schedules, though useful to this Commission in the past, is collected primarily for the use by the Bureau of Labor and Statistics (BLS). Several carriers have stated that they report similar information directly to BLS on BLS Form 790 DTp. We have reviewed this form and it does appear to provide information which duplicates the information reported on Schedules 408A and 408B.

10. We have already proposed the elimination of the recordkeeping requirements for all regulated carriers and, as previously mentioned, eliminated the reporting requirements for telephone carriers. We further propose the elimination of the reporting requirements of the record carriers, Schedule 408A of Annual Report Form R and Schedule 408B of Annual Report Form O.

IV. Other Matters

11. The Commission believes that the elimination of these recordkeeping and reporting requirements would be in furtherance of the Paperwork Reduction Act of 1980.[3] Under this Act an agency is required to review its Rules and Regulations and determine whether they are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. The Commission, as mentioned above, believes that the recordkeeping and reporting requirements discussed in this NPMR are no longer needed for its regulatory purposes. Therefore, an elimination of these requirements would be in compliance with the Paperwork Reduction Act of 1980.

12. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that the elimination of Part 51 and Part 52 of the Commission's Rules and Regulations and the amendment of Annual Report Forms R and O will not have a significant economic impact and will ease the recordkeeping and reporting requirements of large and small carriers. The rationale for the proposed elimination is outlined in the above discussions.

13. For purposes of the non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments,

[1] Currently, the radiotelegraph carriers are ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications, and U.S. Liberia Radio Corporation.

[2] Currently, the wire-telegraph and ocean-cable carriers are Western Union Telegraph Company, WUI Caribbean, Inc., FTC Communications Inc., and Western Union International, Inc.

[3] Public Law 96-511—December 11, 1980.

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 summary of that presentation on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by Docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

14. 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 providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

V. Ordering Clauses

15. Accordingly, it is ordered, that pursuant to the provisions of Section 4(i) and 219, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219 and 220, there is hereby instituted a notice of proposed rulemaking into the foregoing matter.

16. It is further ordered, that all interested persons may file comments on the specific proposals discussed in the Notice on or before August 10, 1983. Reply comments shall be filed on or before August 25, 1983. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the documents will be available for public inspection in the Commission's Docket reference room; 1919 M Street, NW., Washington, D.C.

17. It is further ordered, that pursuant to Section 220(i) of the Communications Act, 47 U.S.C. 220(i) that the Secretary shall cause a copy of this Notice to be served on each state commission.

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 220, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-19309 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 90

[PR Docket No. 81-65; RM-3376; FCC 83-303]

Sharing by the Forest Products Radio Service of Certain Low Band Frequencies Assigned to the Petroleum and Power Radio Services

AGENCY: Federal Communications Commission.

ACTION: Termination of Proceeding.

SUMMARY: The Commission declines to allocate Petroleum and Power Radio Services frequencies to the Forest Products Radio Service but permits applicants in the service to gain access to available spectrum through interservice frequency coordination procedures. This action terminates the rule making proceeding while granting limited relief through present administrative procedures.

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

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C., (202) 634–2443.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land transportation radio services.

Memorandum Opinion and Order

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to provide for sharing by the Forest Products Radio Service of certain low band frequencies assigned to the Petroleum and Power Radio Services; PR Docket No. 81–65, RM–3376.

Adopted: June 29, 1983.
Released: July 8, 1983

By the Commission; Commissioner Fogarty not participating.

Background and Proposal

1. On April 7, 1981, a Notice of Proposed Rule Making in PR Docket 81–65 was released in response to a petition filed by Forest Industries Telecommunications (FIT).[1] The Commission proposed that Forest Products users in Northern California, Oregon and Washington be given access to thirty-six (36) lightly loaded low band frequencies presently assigned to the Power and Petroleum Radio Services by placing them in a pool in the Northwest geographic area and allowing them to be shared among all three radio services on a co-equal, coordinated basis. Likewise, in the designated Southeastern states,[2] the Commission proposed to make available, under the same terms and in the same radio services, nineteen (19) lightly used low band frequencies.

Comments

2. In response to the NPRM, comments were filed by the following organizations: Forest Industries Telecommunications (FIT), The Central Committee on Telecommunications of the American Petroleum Institute (API), and The Utilities Telecommunications Council (UTC). Reply comments were filed by: Forest Industries Telecommunications, The Central Committee on Telecommunications of the American Petroleum Institute, The Utilities Telecommunications Council and The Associated Public Safety Communications Officers, Inc. (APCO). All the commentors except APCO opposed the NPRM.

3. The primary objections to the proposal were that sharing may impede the anticipated future communications requirements of the Power and Petroleum Radio Services' licensees and that the proposal is not feasible because of the "skip" phenomenon and associated interference which occurs in the low band.

4. FIT, representing the main beneficiaries of the proposal, also was unenthusiastic about the proposal. FIT contended that it woud not result in any significant benefit to the Forest Products eligibles and maintained there is little benefit in adopting the rules proposed unless there is some indication of positive result. FIT argued that while the Commission may regard these frequencies as "lightly used" based upon its records, this does not take into account growth, and requirements for mobile communications in the Petroleum Service are growing with the expanding oil exploration activities in the Gulf of Mexico area. In short, not much will be accomplished to assist the eligibles in the Forest Products Radio Service. FIT

[1] *Notice of Proposed Rule Making*, PR Docket No. 81–65, 85 FCC 2D 905; 46 FR 21397, April 10, 1981.

[2] i.e., Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina and Virginia.

asserted, if the aforementioned 36 and 19 frequencies end up being "paper listings" that are in fact unusable. FIT comments page 5. However, on May 12, 1983 counsel for FIT wrote a letter to the Chief of the Private Radio Bureau in this regard. In its letter, *inter alia*, FIT indicated a willingness to share Power Radio Service frequencies.

Decision

5. We have considered the objections to the proposal and we have decided to terminate this proceeding without adopting the rules we proposed. We agree with FIT that there is little point in adopting a solution which will not solve the problem we sought to address and we are concerned with skip interference which disrupts communications in this band. In further consideration of this matter, therefore, rather than pursue a specific reallocation of Petroleum and Power Radio Services' spectrum, we are instead inclined to consider specific requests for waiver of the rules by Forest Products eligibles to share out-of-service spectrum.[3] This will expand the possibilities of sharing available to these eligibles beyond frequencies allocated only to the Power and Petroleum Radio Services, provided they can demonstrate that two essential criteria can be satisfied: (1) they must be able to show that there is no spectrum available in this band in the Forest Products Radio Service in the desired area of operation and there is spectrum available in another radio service in this area; and (2) they must demonstrate the use of this spectrum has been coordinated with the radio service to which the spectrum is allocated and that it is feasible to share this spectrum on a coordinated basis in a way which will minimize the possibility of skip interference. We believe this course of case-by-case consideration has potential for being useful in providing relief while assuring a minimum of interference. We emphasize that we expect licensees in all radio services to cooperate in the shared use of spectrum to assure that this valuable resource does not lie fallow in one radio service while communication needs go unmet in another. Therefore, we will proceed on a case-by-case basis and terminate this proceeding.

6. Accordingly, we are not adopting the rules as proposed and, it is hereby ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-18983 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[3] As in other services, we would also permit Forest Products licensees to share excess capacity as provided for in our recent decision in Docket No. 18921 (*Memorandum Opinion and Order on Reconsideration*, Docket No. 18921, adopted April 27, 1983, released June 6, 1983, FCC 83-175).

Notices

Federal Register
Vol. 48, No. 138
Monday, July 18, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, July 28, at the office of the Administrative Conference of the United States, 2120 L Street, NW., Washington, D.C.

The committee will meet to consider the report by its consultant, Professor Ronald Cass, entitled Agency Review of Administrative Law Judge's Decisions.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting, contact Richard K. Berg, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. Telephone (202) 254–7020. Minutes of the meeting will be available on request.

Dated: July 12, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83-19366 Filed 7-15-83; 8:45 am]

BILLING CODE 6110-01-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Cancellation of Meeting

The meeting of the General Advisory Committee on Arms Control and Disarmament scheduled for July 20 and 21, 1983, which was announced in the **Federal Register** of July 15, 1983 (48 FR 30734), has been cancelled. Notice of this change could not be published at least 15 days before the date of the meeting because the decision to cancel the meeting occurred too late to permit such notice.

Dated: July 14, 1983.

John E. Grassle,

Committee Management Officer.

[FR Doc. 83-19504 Filed 7-15-83; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the ascertained that the Packers and Stockyards Act, 1981, as amended (7 U.S.C. 181 *et seq.*), it was livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
TX-325 Bridgeport Livestock Auction, Bridgeport, Texas.	June 23, 1983.
TX-327 Leggott Groesbeck Commission Company, Inc., Groesbeck, Texas.	June 6, 1983.

Done at Washington, D.C., this *12th* day of *July, 1983.*

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-19349 Filed 7-15-83; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket No. 40813]

Regent Air Corp.; Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 18, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., July 11, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-19376 Filed 7-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd.; Fitness Investigation; Cancellation of Hearing

Notice is hereby given that the hearing in the above-mentioned matter assigned to commence on July 19, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, (48 FR 26654, June 9, 1983) is hereby cancelled until further notice.

Dated at Washington, D.C., July 12, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-19375 Filed 7-15-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00p and will end at 6:00p, on August 31, 1983, at the U.S. Commission on Civil Rights, New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts. The purpose of this meeting is to continue planning of projects on sexual harassment and successful affirmative action.

Persons desiring additional information or planning a presentation to the Committee, should contact the

Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, P.O. Box 95, East Falmouth, Massachusetts 02536, (617) 548–5123; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 13, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-19246 Filed 7-15-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: October 1983 School Enrollment Supplement
Form numbers: Agency—CPS–1; OMB—N/A
Type of Request: New
Burden: 58,000 respondents; 8,200 reporting hours
Needs and uses: This supplemental inquiry provides basic data on school enrollment for individuals 5 years old and over who are enrolled in elementary school, high school, college, and special schools as well as for persons 3 and 4 years of age enrolled in nursery schools and kindergarten.
Affected public: Individuals or households
Frequency: On occasion
Respondent's obligation: Voluntary
OMB Desk Officer: Tim Sprehe, 395–4814

Agency: Bureau of the Census
Title: Annual Retail Trade Survey
Form numbers: Agency—B–151, B–151A B–152, B–153; OMB—0607–0013
Type of request: Revision
Burden: 30,500 respondents; 11,560 reporting hours
Needs and uses: This survey provides the only continuing authoritative measure of annual sales, purchases, year-end inventories, and accounts receivables balances. The sales and inventories are used as benchmarks for the monthly series. These data along with purchases are also used by the Bureau of Economic Analysis in computing the GNP. The accounts receivable balances are used by the Federal Reserve Board.

Affected public: Business or other for-profit institutions; non-profit institutions; small businesses or organizations.
Frequency: Annually
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Tim Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Linda Engelmeier,

Management Analyst, for Edward Michals, Departmental Clearance Officer.

[FR Doc. 83-19247 Filed 7-15-83; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket No. 22–83]

Foreign-Trade Zone 18—San Jose, California; Application for Reorganization

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Jose, California, grantee of Foreign-Trade Zone 18, requesting authority to reorganize its general-purpose foreign-trade zone in San Joes, within the San Francisco-Oakland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on july 8, 1983. The applicant is authorized to make this proposal under Sections 6300–6304, Chapter 4 of the California Government Code.

On November 27, 1974, the Board authorized the City of San Jose to establish a foreign-trade zone (Board Order 103, 39 FR 42031, 12/4/74). The project currently involves 30 acres within the International Business Park, San Jose. Temporary modifications were approved on October 18, 1982 (A–8–82) and March 3, 1983 (A–3–83).

The City now requests authority to permanently reorganize the zone project to relocate the general-purpose zone facility and establish two zone annexes. Public zone operations would be transferred from the International Business park site to a facility covering 5 acres at 535 Brennan Avenue, within the Rincon de los Esteros Industrial Redevelopment Project, San Jose. A 50,000 square foot warehouse is available for storage, inspection and repackaging operations. C.C.B.S. Warehousing Services, Inc., operator of the facility, has been designated by the City as the new operator of the zone project.

Annex 1A will be for the precious metals recovery operations of Metal Processing Industries, Inc., covering 18,000 square feet in Building A, 1919 Lundy Avenue, San Jose, which has been in use as a temporary site. The company crushes defective computer circuits and recoverd the precious metal for a variety of clients. Annex 1B involves the operations of Olympus Corporation, covering 35,000 square feet at 2185 Fortune Drive, San Jose, which is located on an inactive portion of the original approved zone area. The company will use this facility to inspect and adjust imported medical endoscopes, and to eventually assemble some of the units. While the applicant refers to these sites as annexes, as private manufacturing operations, they will be evaluated under the criteria for subzones.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Paul Andrews, District Director, U.S. Customs Service, Pacific Region, 555 Battery St., P.O.B. 2450, San Francisco, CA 94111; and Lt. Colonel Edward M. Lee, Jr., District Engineer, U.S. Army Engineer District San Francisco, 211 Main St., San Francisco, CA 94105.

Comments concerning the proposed zone reorganization are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 12, 1983.

A copy of the application is available for public inspection at each of the following locations:

Office of Economic Development San Jose City Hall, Room 408 501 N. First Street San Jose, CA 95110
Office of the Executive Secretary Foreign-Trade Zones Board U.S. Department of Commerce, Room 1872

14th and Pennsylvania, N.W.
Washington, D.C. 20230.

Dated: July 12, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-19320 Filed 7-15-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Certain Textiles and Textile Products From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1982 through December 31, 1982.

As a result of the review, the Department has preliminarily determined that there was no bounty or grant conferred during the period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Larry Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 7611) the final results of its last administrative review of the countervailing duty order on certain textiles and textile products from Argentina (47 FR 53421, November 16, 1978) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Argentine men's and boys' woolen apparel. Such merchandise is currently classifiable under the items of the Tariff Schedules of the United States Annotated ("TSUSA") listed in the Appendix to this notice.

The review covers the period January 1, 1982 through December 31, 1982 and two programs: (1) The reembolso, a cash rebate of indirect taxes; and (2) a preferential pre-export financing program.

Analysis of Programs

(1) *Reembolso.* The reembolso is a rebate of indirect and direct taxes, upon exportation of merchandise, paid as a percentage of the f.o.b. invoice price. Although the Government of Argentina rebates upon exportation all indirect and direct taxes borne by the exported product, the Tariff Act allows the rebate of only the following: (1) taxes borne by inputs which are physically incorporated in the exported product (*see* Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (*see* Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes, and, therefore, a subsidy.

To calculate the net subsidy on men's and boys' woolen apparel, we allowed the rebate of indirect taxes on raw materials, which constitute the bulk of the taxes. In addition we allowed final stage indirect taxes, such as excise taxes. We disallowed taxes on labor, on "indirect expenditures" and on other items not physically incorporated.

Based on our analysis, we have found that indirect taxes on physically incorporated inputs and final stage indirect taxes on men's and boys' woolen apparel amount to 19.33 percent *ad valorem.*

Effective December 24, 1981, the Government of Argentina reduced the reembolso rate on exports of men's and boys' woolen apparel from 25 percent to 10 percent *ad valorem.* We preliminarily find that this reduction eliminated the overrebate which we previously found countervailable.

(2) *Preferential Financing.* The preferential financing program makes pre-export loans, in pesos indexed to U.S. dollars, available to exporters at an interest rate of one percent. Such funds are available for a period of up to 180 days, and are to be repaid no later than 60 days after the export date. The funds are provided by the Central Bank of Argentina and disbursed by private commercial banks to individual borrowers.

For men's and boys' woolen apparel, the Central Bank limited potential loan amounts to 60 percent of the contracted f.o.b. price. However, because the Government of Argentina has informed us that this program was not used during 1982 for men's and boys' woolen apparel exports to the United States, we preliminarily determine that there was no benefit conferred under the preferential financing program during the period of review.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the total bounty or grant conferred during the period of review to be zero percent. The Department intends to instruct the Customs Service to liquidate entries of this merchandise exported on or after January 1, 1982 and on or before December 31, 1982 without regard to countervailing duties.

Further, the Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

Wearing Apparel

372.0800(b)
372.1020(a)(b)
372.1015(a)(b)
372.2500 (for male infants)
372.3000(b)
372.3500(b)

372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
378.3510(b)
378.4000(b)
378.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.6615(a)
379.6934 through 379.6958(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women and/or girls are not covered by this notice

[FR Doc. 83-19319 Filed 7-15-83; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

University of Florida/Shands Hospital, Inc. et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-175. Applicant: University of Florida/Shands Hospital, Inc., Division of Surgical Pathology, Box J-275, JHMHC, Gainesville, FL 32610. Instrument: Electron Microscope, Model 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 20973 in the **Federal Register** of May 10, 1983. Instrument ordered: April 9, 1983.

Docket No. 83-183. Applicant: Yale University, School of Medicine, 333 Cedar Street, New Haven, CT 06510. Instrument: Electron Microscope, Model JEM 1200EX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See notice on page 23286 in the **Federal Register** of May 24, 1983. Instrument ordered: December 22, 1982.

Docket No. 83-199. Applicant: The Rockefeller University, 1230 York Avenue, New York, NY 10021. Instrument: Electron Microscope, JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See notice on page 27282 in the **Federal Register** of June 14, 1983. Instrument ordered: April 1, 1983.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-19243 Filed 7-15-83; 8:45 am]
BILLING CODE 3510-25-M

State University of New York at Buffalo; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-139. Applicant: State University of New York at Buffalo, 202 Crofts Hall, Amherst, NY 14260. Instrument: Fan Test Set, #TE.84. Manufacturer: Experimental Engineering Equipment Ltd., Canada. Intended use of instrument: See notice on page 23288 in the **Federal Register** of May 24, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures total head, rate of flow, power input and efficiency. The National Bureau of Standards advises in its memorandum dated June 28, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which

is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-19244 Filed 7-15-83; 8:45 am]

BILLING CODE 3510-25-M

University of Idaho; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523 Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-142. Applicant: University of Idaho, Moscow, ID 83843. Instrument: VG 7070 GC/Mass Spectrometer with Demonstrator Model 11/250 Data System. Manufacturer: VG Instruments Group, United Kingdom. Intended use of instrument: See notice on page 13214 in the **Federal Register** of March 30, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument is intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (December 7, 1982).

Reasons: The foreign instrument has a resolution of 25,000 (10% valley definition) and a combined CI/EI capability. Instruments offered by the Nuclide Corporation (Nuclide) meet these specifications but Nuclide failed to respond to a phone call for information (on September 24, 1982), a follow up letter dated October 4, 1982 and a formal request for quote (RFQ) sent October 26, 1982. The National Bureau of Standards advises in its memorandum dated May 10, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both willing and able to provide an instrument with the required feature (features) at the time the foreign instrument was ordered.

As to the domestic availability of instruments § 301.5(d)(2) of the regulations provides:

> * * * In determining whether a U.S. manufacturer is able and willing to produce an instrument and have it available without unreasonable delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case * * *

Among other things, this subsection also provides:

> * * * If a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument.

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, attempts to contact a domestic manufacturer in good faith and submits a RFQ but the manufacturer does not respond it is apparent that the domestic manufacturer is either not willing or not able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "willing and able" to manufacture a domestic instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-19245 Filed 7-15-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Additions

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

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1983 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 18, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped.

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

SUPPLEMENTARY INFORMATION: On April 1, and April 29, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 14021 and 48 FR 19456) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101):

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-46c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1983:

Class 4130

Filter, Air Conditioning
4130-00-203-3321
4130-00-274-7800
4130-00-756-1840
4130-00-249-0966

Class 7520

Trimmer, Paper 7520-00-224-7620

(For GSA Regions 1, 2, 3, W, 4, 5, 6, and 7 only)

C. W. Fletcher,

Executive Director.

[FR Doc. 83-19319 Filed 7-15-83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Fire Support for Amphibious Warfare will meet in closed session on 8-9 September 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 8-9 September 1983 the Task Force will consider the basic requirements for fire support during amphibious warfare operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: July 13, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-19348 Filed 7-15-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collection; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

NEW

USAF Quality of Medical Care Survey, USAF SCN 82-94

This information is needed to address Air Force retired members' satisfaction with the medical care they receive at USAF medical facilities.

Air Force retired members: 600 responses; 300 hours.

Forward comments to Edward Spinger, OMB Deks Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1C514, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

(A copy of the information collection proposal may be obtained from Capt. Blackhurst, HQ AFMPC/MPCYPS, Randolph AFB, TX 78150, telephone (512) 652-6122)

Dated: July 13, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

FR Doc. 83-19347 Filed 7-15-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

July 8, 1983.

The USAF Scientific Advisory Board Strategic Cross-Matrix Panel Ad Hoc Committee on the Small Missile will meet at the Pentagon, Washington, D.C. on August 8-10, 1983. The purpose of the meeting will be to assess technical approaches to implementing the small missile program. The meeting will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-19186 Filed 7-15-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Availability of the Draft Environmental Impact Statement; Construction/ Operation of Proposed Chemical Agent Disposal System on Johnston Atoll

AGENCY: Department of the Army, DOD.

ACTION: Notice of Availability of a Draft Environmental Impact Statement on the potential impact from the design, construction, operation and decontamination of a proposed chemical agent disposal system on Johnston Atoll.

1. Description of the Action: The Army is proposing to destroy obsolete and unserviceable agents and munitions presently stored at Johnston Atoll (Central Pacific Ocean) because they are deteriorating rapidly in the tropical salt air environment of the Atoll. Not only will the munitions and agents eventually require destruction, but postponing their destruction at Johnston Atoll will increase the costs and complexity of future disposal operations and will increase the risk of accidental release of agent with the inherent potential impact to personnel and the environment. The US Army has studied the feasibility and desirability of the destruction of obsolete and unserviceable chemical agents and munitions presently stored in the Southwest quadrant of Johnston Island, Johnston Atoll. Agents requiring destruction are the nerve agents, GB and VX, and the blistering agent, HD, which are contained in bombs, rockets, projectiles, and mines as well as ton containers. The study considered a number of alternatives and combinations involving siting of the project, processes to destroy agents, and scrubber waste disposal. The preferred combination of alternatives is the destruction of the chemcial agents and other combustible components of the munitions by incineration at Johnston Atoll, with the facility located on the West Peninsula of Johnston Island. The resultant non-toxic scrubber waste salts will be stored at Johnston Island. No significant adverse environmental impacts are expected from the proposed operations. An indirect consequence of the proposed project will be the doubling of the island's human population and proportionate increase in municipal wastes and recreational contact with the natural resources of the Johnston Atoll National Wildlife Refuge. However, the proposed project will result in the removal of a potential hazard and the proposed design and management controls will be sufficient

to avoid significant environmental effects.

2. A notice of intent to prepare an Environmental Impact Statement for the proposed facility was published in the **Federal Register** on February 25, 1983. A public scoping meeting, also announced in the Notice of Intent, was held in Honolulu, Hawaii on March 17, 1983 so that interested individuals and agencies could assist the Department of the Army in determining the significant issues related to the proposed action. Issues identified at the public scoping meeting and those expressed in writing to the Department of the Army have been considered in the preparation of the Draft Environmental Impact Statement.

3. The proposed action involves the construction of an advanced industrial-type facility that will use the latest combined state-of-the-art technology and processes successfully demonstrated at the Army's prototype Chemical Agent Munitions Disposal System (CAMDS), which has been in operation at Tooele Army Depot, Utah since September 1979.

4. The alternatives to the proposed action, discussed in the DEIS, are:

- No action: Continue to store the obsolete/unserviceable munitions at JA.
- Construction of a chemical disposal facility at an alternate site and ship the munitions to that site.
- Transfer the chemical agents/munitions stored at JA to another site for storage.
- Disposal of the unserviceable/obsolete chemical munitions by ocean dumping.
- Disposal of the unserviceable/obsolete chemical munitions at sea by shipboard incineration as was done for Herbicide Orange.
- Neutralize the chemical agents rather than incinerate them.
- Develop means to reprocess the chemical agents to reusable products.

Environmental impact analyzed include air quality, water quality, waste disposal, human health, noise, endangered species, other fish and wildlife and socioeconomics.

5. Notice is further given of the initiation of the public comment period of 45 days commencing from the date of publication of this notice.

6. Comments on the DEIS should be submitted in writing to the US Army Division Engineer, Pacific Ocean, Ft. Shafter, HI 96858.

7. Copies of the DEIS may be obtained by writing to the above address or the Commander, US Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-ES, Aberdeen Proving Ground, MD 21010.

Dated: July 13, 1983.

John T. Nash,

Acting Deputy for Environment, Safety and Occupational Health, OASA(IL&FM).

[FR Doc. 83-19242 Filed 7-15-83 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Regulatory Permit for Construction of Underwater Petroleum Pipeline Across the Sampit River, Georgetown County, South Carolina

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Carolina Refining and Distributing Company applied for a Department of the Army (DA) permit to construct an underwater pipeline across the Sampit River in Georgetown, Georgetown County, South Carolina, for the purpose of carrying crude oil to a proposed 30,000-barrel per day refinery and returning the refined products to the State Ports Authority pier. A Joint Public Notice, P/N 79-5R-319, was issued on 3 December 1979 by the Charleston District, Corps of Engineers, and the State of South Carolina describing this proposed project. Concern expressed by Federal, State, and local agencies and individuals has resulted in the decision to prepare an EIS.

2. The DEIS will include but not be limited to a discussion of the following alternatives: pipeline routes; plant sites; alternate methods of oil handling; alternate plant size; permit issuance; permit issuance with special conditions; and permit denial.

3. a. During the processing of this permit application, numerous agencies and individuals provided comments regarding the proposed action. This includes comments made during a public meeting held in Georgetown, South Carolina, on 8 October 1981. Further informal and formal coordination will continue during the EIS process.

b. Significant issues to be discussed in the DEIS will include but not necessarily be limited to the following: potential effects of construction and operation of the underwater pipeline; potential effects of the construction and operation of an oil refinery; potential effects on fish and wildlife including endangered species, of possible oil spills; water quality and air quality changes; land use changes; and potential effects on socio-economic conditions in the area.

c. As lead agency for processing the DEIS, the Corps of Engineers will ask the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, and the U.S. Coast Guard to serve as cooperating agencies and contribute to the preparation of the EIS. As the scoping process proceeds, similar requests may be made to other agencies.

4. A scoping meeting will be held at 9 a.m. on 22 July 1983 in Room 333 of the L. Mendel Rivers Federal Building, Charleston, S.C. This meeting is planned primarily for Federal, State, and local agencies and environmental groups and organizations. Other meetings may be held if a need develops during the course of the scoping process. Interested individuals who wish to contribute to the scoping process are urged to submit suggestions to the Charleston District as soon as possible.

5. It is estimated that the DEIS will be available to the public for review and comment in early 1984.

ADDRESS: Questions about the permit application can be answered by Clarence A. Ham, U.S. Army Engineer District, Charleston, P.O. Box 919, Charleston, S.C. 29402, (803) 724-4604 or FTS 677-4604. Questions about the EIS can be answered by John L. Carothers, same address, (803) 724-4258 or FTS 677-4258.

Dated: July 11, 1983.

F. L. Smith, Jr.,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 83-19356 Filed 7-15-83; 8:45 am]

BILLING CODE 3710-CH-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: August 15, 1983, 9:00 a.m. to 5:00

p.m., adult education program visitations to military installations, Sweetwater Union High School District, and San Diego Community College District: August 16–17, 1983, 9:00 a.m. to 5:00 p.m., full Council meeting.

ADDRESS: The Seapoint Hotel, 4875 North Harbor Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Review of S. 1039, Vocational and Adult Education Block Grant
Reauthorization of the Adult Education Act
Annual Report
Report on Adult Literacy
Committee Reports

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C., on July 13, 1983.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 83-19237 Filed 7-15-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangements; Australia

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 Agreement for Cooperation Between the Government of the United States of America and the Government of Australia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S–AU–119, to Queensland Mines, Ltd., Northern Territory, Australia, 42.4 grams of natural uranium, for use as standard reference material.

Contract Number S–AU–120, to the State X-Ray Laboratory, Western Australia, 15.463 grams of natural uranium and 1.74 grams of thorium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials 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: July 8, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-19181 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–EU–777, to the Atomic Energy Research Establishment, the United Kingdom, 0.005 grams of uranium, enriched to 33% in U–235, 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: July 8, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-19183 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the 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 Japan 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/EU(JA)–56, from Japan to Belgium, five fuel rods containing 2,300 grams of uranium, enriched to 3.26/% in U–235, for irradiation in the R–3 reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that retransfer 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: July 8, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-19180 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

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 Switzerland 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-SD-123, to the Swiss Federal Institute for Reactor Research, 2.1 grams of plutonium −239 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: July 8, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 83-19179 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

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 Switzerland Concerning Civil 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-SD-17, with the Swiss Institute for Nuclear Research, Villigen, Switzerland, 57 grams of depleted uranium, for use in connection with experiments to investigate the physical and reaction kinetics of muon induced processes.

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: July 8, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 83-19182 Filed 7-15-83 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-021 as Amended]

Bethlehem Steel Corp.; Application for Amendment To Existing Certification of the Use of Natural Gas To Displace Fuel Oil

On November 17, 1982, Bethlehem Steel Corp. (Bethlehem), Bethlehem, Pa., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 82-CERT-021). The certification was for the eligible use of 4,000 Mcf per day of natural gas purchased from Phillips Production Co. for use by Bethlehem at its Bethlehem Plant in Bethlehem, Pa. The volume of natural gas was estimated to displace the use of approximately 26,700 gallons per day of No. 6 fuel oil (1.0 percent sulfur). The transporter and distributor were Columbia Gas Transmission Corp. and UGI Corp., respectively. That certificate will expire on November 16, 1983.

On June 21, 1983, Bethlehem filed an application for amendment to the existing certification of an eligible use to add Industrial Energy Services Co., Pittsburgh, Pa., as an eligible seller at the above facility, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). All other aspects of the November 17, 1982, certification remain unchanged. The amendment is 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 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 for amendment 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 for amendment 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 the applicant and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on July 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19326 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-119 et al.]

Gold Bond Building Products Co. et al.; Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for 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.

Application and facility location	Date filed	Docket No.	FEDERAL REGISTER notice of application
Gold Bond Building Products Co., Lorain, Ohio, Baltimore, Md	May 23, 1983	83-CERT-119	48 FR 27817, June 17, 1983.
Holmann Industries, Inc., Sinking Spring, Pa	May 23, 1983	83-CERT-120	48 FR 27422, June 15, 1983.
Oscar Mayer Foods Corp., Beardstown, Ill	May 25, 1983	83-CERT-122	48 FR 27425, June 15, 1983.
Quincy Soybean Co., Quincy, Ill	May 25, 1983	83-CERT-123	48 FR 27427, June 15, 1983.
Harbison-Walker Refractories U.S., Baltimore, Md	May 25, 1983	83-CERT-124	48 FR 27422, June 15, 1983.
Heinz U.S.A., Fremont, Ohio	May 25, 1983	83-CERT-125	48 FR 27422, June 15, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on July 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19324 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

[94OX0023]

Hydrocarbons, Ltd.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Hydrocarbons, Ltd. of Norwalk, California. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183. The total violation alleged during January 1978 through December 1980 is $556,786.76.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193

Issued in Tulsa, Oklahoma, on the 29th day of June 1983.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83-19322 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

[6COX00275]

Liberty Trading Co. and Ray Levrier; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Liberty Trading Company and Ray Levrier of Houston, Texas. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62(c), 205.202, 212.182 and 212.183. The total violation alleged during July 1980 through November 1980 is $1,326,112.92.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma, on the 29th day of June 1983.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83-19322 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

Warrior Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Warrior Oil Company, Inc. (WOC), of Tuscaloosa, Alabama. This Proposed Remedial Order alleges pricing violations in the amount of $359,484.72 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart F during the time period November 1973 through December 1977.

A copy of the Proposed Remedial Order, with confidential information delated, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Reguatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 1st day of July 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-19321 Filed 7-15-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA DOCKET NO. 83-CERT-175 et al.]

Xtek, Inc. et al.; Applications for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilties under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding these applications is listed below, while more detailed information is contained in each application on file and available for 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.

1. 83–CERT–175.
Applicant: Xtek, Inc., Cincinnati, Ohio.
Date Filed: June 3, 1983.
Facility Location: Cincinnati, Ohio.
Gas Volume: 65,500 Mcf per year.
Oil Displacement: 11,142 barrels of No. 2 fuel oil (0.5% sulfur).
Eligible Sellers: Exxon U.S.A., Houston, Tex., Texas Gas Corp., Owensboro, Ky.; and Ohio Gas Marketing Corp., Newark, Ohio.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; Texas Gas Transmission Corp., Owensboro, Ky.; Cincinnati Gas & Electric Co., Cincinnaiti, Ohio; and Union Light, Heat & Power Co., Covington, Ky.

2. 83–CERT–187.
Applicant: Diamond Shamrock Corp., Irving, Tex.
Date Filed: June 9, 1983.
Facility Location: Cincinnati, Ohio.
Gas Volume: 328,500 Mcf per year.
Oil Displacement: 47,798 barrels of No. 6 fuel oil (1% sulfur).
Eligible Sellers: Columbia Gas Transmission Corp., Charleston, W. Va. and Texas Gas Transmission Corp., Owensboro, Ky.
Transporters: Columbia Gas Transmission Corp., Charleston, W. VA.; Texas Gas Transmission Corp., Owensboro, Ky.; and Cincinnati Gas & Electric Co., Cincinnati, Ohio.

3. 83–CERT–209.
Applicant: Gulf States Utilities Co., Beaumont, Tex.
Date Filed: June 20, 1983.
Facility Location: Roy S. Nelson Station, Westlake, La.
Gas Volume: 5,475,000 Mcf per year.
Oil Displacement: 987,879 barrels of No. 6 fuel oil (0.7% sulfur).
Facility Location: Willow Glen Station, Baton Rouge, La.
Gas Volume: 5,475,000 Mcf per year.
Oil Displacement: 987,879 barrels of No. 6 fuel oil (0.7% sulfur).
Totals: Gas volume 10,950,000 Mcf per year; total oil displacement 1,975,758 barrels per year.
Eligible Seller: Funk Exploration, Oklahoma City, Okla.
Transporters: Natural Gas Pipeline Corp., Chicago, Ill.; Northern Natural Gas Co., Omaha, Nebr.; Sugar Bowl Gas Corp., Houston, Tex.; Cajun Natural Gas Co., Houston, Tex.; Panhandle Eastern Pipe Line, Houston, Tex.; and United Gas Pipe Line Co., Houston, Tex.

4. 83–CERT–217.
Applicant: Queen City Terminals, Inc., Cincinnati, Ohio.
Date Filed: June 21, 1983.
Facility Location: Cincinnati, Ohio.
Gas Volume: 10,000 Mcf per year.
Oil Displacement: 80,000 barrels of No. 2 fuel oil (1.0% sulfur).
Eligible Sellers: Exxon U.S.A., Houston, Tex.; Texas Gas Corp., Owensboro, Ky.; and Ohio Gas Marketing Corp., Newark, Ohio.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; Texas Gas Transmission Corp., Owensboro, Ky.; Cincinnati Gas and Electric Co., Cincinnati, Ohio; and Union Light, Heat and Power Co., Covington, Ky.

5. 83–CERT–218.
Applicant: St. Luke's Hospital, Bethlehem, Pa.
Date Filed: June 21, 1983.
Facility Location: Bethlehem, Pa.
Gas Volume: 122,640 Mcf per year.
Oil Displacement: 829,500 barrels of No. 6 fuel oil (1.0% sulfur).
Eligible Seller: Exxon U.S.A., Houston, Tex.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va. and UGI Corp., Reading Pa.

6. 83–CERT–219.
Applicant: Maryland Cup Corp., Owings Mills, Md.
Date Filed: June 21, 1983.
Facility Location: Owings Mills, Md.
Gas Volume: 187,500 Mcf per year.
Oil Displacement: 31,000 barrels of No. 2 fuel oil (0.3% sulfur).
Eligible Sellers: Exxon U.S.A., Houston, Tex.; POI Energy, Inc., Cleveland, Ohio; and Target Exploration, Inc., Columbia, Md.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va. and Baltimore Gas and Electric Co., Baltimore, Md.

7. 83–CERT–220.
Applicant: A.E. Staley Manufacturing Co., Decatur, Ill.
Date Filed: June 22, 1983.
Facility Location: Frankfort, Inc.
Gas Volume: 500,000 Mcf per year.
Oil Displacement: 3,649,635 barrels of No. 2 fuel oil (0.5% sulfur).
Eligible Seller: IGC Energy Co., Indianapolis, Ind.
Transporters: Panhandle Eastern Pipeline Co., Houston, Tex. and Indiana Gas Co., Inc., Indianapolis, Ind.

8. 83–CERT–221.
Applicant: Ralston Purina Co., Dunkirk, N.Y.
Date Filed: June 22, 1983.
Facility Location: Dunkirk, N.Y.
Gas Volume: 160,000 Mcf per year.
Oil displacement: 1,144,000 gallons of No. 2 fuel oil (0.1% sulfur).
Eligible Seller: Envirogas, Inc., Hamburg, N.Y.
Transporters: National Fuel Gas Supply Corp., Oil City, Pa. and National Fuel Gas Distribution Corp., Buffalo, N.Y.

9. 83–CERT–222.
Applicant: Model Service Laundry Corp., Cincinnati, Ohio.
Date Filed: June 22, 1983.
Facility Location: Cincinnati, Ohio.
Gas Volume: 16,380 Mcf per year.
Oil Displacement: 118,608 gallons of No. 2 fuel oil (0.2% sulfur).
Eligible Sellers: Exxon U.S.A., Houston, Tex.; Texas Gas Corp., Owensboro, Ky.; and Ohio Gas Marketing Corp., Newark, Ohio.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; Texas Gas Transmission Corp., Owensboro, Ky.; Cincinnati Gas & Electric Co., Cincinnati, Ohio; and Union Light, Heat and Power Co., Covington, Ky.

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 any of these applications 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, S.W., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the Federal Register. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of any of the above applications may be requested by any interested person in writing within the ten-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 in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the Federal Register.

Issued in Washington, D.C., on July 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR doc. 83-19325 Filed 7-15-83, 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP83-389-000]

Algonquin Gas Transmission Co.; Application

July 12, 1983.

Take notice that on June 24, 1983, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP83-389-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited-term storage and inventory sales service to 7 of its customers at existing delivery points under a proposed new Rate Schedule S-IS, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks a certificate of public convenience and necessity, authorizing Applicant through June 15, 1986, to render a three-year, limited-term storage service and related inventory sales service to Bay State Gas Company (Bay State), Boston Gas Company (Boston Gas), Bristol and Warren Gas Company (Bristol and Warren), Connecticut Light and Power Company (Connecticut L&P), Connecticut Natural Gas Corporation (Connecticut Natural), Providence Gas Company (Providence Gas), and The Southern Connecticut Gas Company (So. Connecticut Gas), in the quantities shown below.

Customer	Inventory sale gas (million Btu)	Annual storage quantity (million Btu)	Maximum daily withdrawal quantity (million Btu)
Bay State	400,000	800,000	8,000
Boston Gas	421,044	842,088	8,593
Bristol and Warren	5,142	10,285	105
Connecticut L&P	185,263	370,526	3,158
Connecticut Natural	579,505	1,159,010	11,827
Providence Gas	171,423	342,846	3,500
So. Connecticut Gas	157,923	315,845	3,223
Total	1,920,300	3,840,600	38,406

It is indicated that this service would enhance these customers' ability to cope with winter delivery requirements of their high-priority consumers. Applicant states that the proposed service is dependent upon services to be rendered by Consolidated Gas Supply Corporation (Consolidated), proposed in Docket No. CP83-386-000, and Texas Eastern Transmission Corporation (Texas Eastern), proposed in Docket No. CP83-385-000.

Applicant states that in each year of the proposed service a participating customer is required to purchase the inventory sale gas quantities specified above, which Applicant has contracted to purchase from Consolidated in Docket No. CP83-386-000. In addition, Applicant explains that these customers may tender gas to Applicant for injection into storage until such customer's storage inventory equals its annual storage quantity. It is indicated that such tender of gas for storage is to be accomplished through nominations by the customer of quantities of gas otherwise deliverable by Applicant to such customer under Applicant's Rate Schedules F-1 and I-1.

It is stated that daily deliveries are subject to Texas Eastern's providing sufficient quantities of gas under its Rate Schedule ISS-III to permit Applicant to make such deliveries. Applicant further states that unless it specifically agrees to deliver greater quantities, Applicant's daily delivery obligation is limited to the lesser of (a) the difference between the customer's total firm maximum daily quantity for service under Applicant's Rate Schedules F-1, WS-1, and STB, and the aggregate quantity of gas delivered to the customer on such day under Applicant's Rate Schedules F-1, WS-1, and STB, or (b) such customer's maximum daily withdrawal quantity under proposed rate Schedule S-IS reduced by fuel reimbursement required for such day. In addition, it is indicated that a participating customer is obligated to schedule withdrawals from storage to ensure that its storage inventory is no higher than 70 percent of its annual storage quantity between January 1 and March 31 of each year. Applicant states that the customers are required to reduce their storage inventories to zero by June 15, 1984, June 15, 1985, and June 14, 1986. It is stated that no new facilities are required to effectuate the proposed service.

Applicant proposes to render the above service under a new rate schedule—Rate Schedule S-IS. It is indicated that the initial rate which Applicant proposes to charge for this service reflects reimbursement to Applicant of its cost of purchasing inventory sale gas from Consolidated, reimbursement to Applicant of its cost of purchasing interim storage service from Texas Eastern under Rate Schedule ISS-III, and Applicant's handling charge. It is further indicated that the GRI charge normally applied under Applicant's sales rate schedules would also be applied to inventory sale gas when it is resold to the Rate Schedule S-IS customers. Applicant's handling charge under the proposed rate schedule is stated to be 14.74 cents per million Btu equivalent of net quantities of gas delivered or required to be scheduled for delivery by the end of each withdrawal period. Applicant suggests that the appropriate treatment of the S-IS revenues, including consideration of the possible erosion of sales from Applicant's traditional supply sources as a result of the instant proposal, should be resolved in Applicant's general rate proceeding. In addition, Applicant specifically requests special permissions or other authorizations as may be necessary for Applicant to flow through, on a current tracking basis, Consolidated's charges for inventory sale gas and all of Texas Eastern's charges under its Rate Schedule ISS-III, including the storage service charges of Consolidated which Texas Eastern would pass on to Applicant thereunder.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 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 apppropriate 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 of 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. 83-19263 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-611-000]

Central Power and Light Co. and West Texas Utilities Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) on July 1, 1983, jointly tendered for filing a proposed transmission service tariff. The tariff provides for transmission service over and to or from certain direct current facilities now under construction or planned to be constructed which, when completed, will establish interconnections between the Electric Reliability Council of Texas and the Southwest Power Pool.

The transmission tariff was filed pursuant to the "Order Requiring Interconnection and Wheeling, and Approving Settlement," which was issued on October 28, 1981, and modified by the "Order on Rehearing," which was issued on January 29, 1982, by the Commission in *Central Power and Light Company, et al.*, Docket Nos. EL79-8 and E-9558.

The Companies request that the tariff become effective August 31, 1983, or such later date as the Commission may determine.

A copy of the filing has been sent to the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19264 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI75-633-002, et al.]

Champlin Petroleum Co. (Successor to MRT Exploration Company); Redesignation

July 12, 1983.

Take notice that on April 13, 1983, Champlin Petroleum Company (Applicant) of Two Allen Center, 1200 Smith Street, Suite 1900, Houston, Texas 77002, pursuant to the provisions of the Natural Gas Act and the Natural Gas Policy Act of 1978, filed an application to amend the certificates of public convenience and necessity, as supplemented or amended, and temporary authorizations, previously issued by the Commission to MRT Exploration Company under each of the proceedings listed in Exhibit "A" attached hereto, by deleting thereform the name of MRT Exploration Company and substituting therein the name Champlin Petroleum Company, and to redesignate MRT Exploration Company Rate Schedules and pending proceedings.

By conveyance effective March 1, 1983 MRT Exploration Company transferred and assigned all of its rights, titles, interests, and obligations in those certain gas sales and purchase agreements which are identified by certificate docket and rate schedule number on Exhibit "A" attached.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the 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 on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "A"

Rate schedule No.	Purchaser	Docket No.
2	Mississippi River Transmission Corp.	C175-633.
4	do	C176-166.
5	do	C176-654.
6	do	C176-705.
7	do	C177-20.
9	do	C177-286.
10	do	C177-709.
11	do	C178-902.
12	do	C178-1135.

Note:

Rate schedule No.	
1	Limited Term Certificate in Docket No. C174-115 terminated on February 16, 1976. Sales now coverd under rate schedule 4.
3	Certificate in Docket No. C175-698 terminated under Section 7(b).
8	Certificate in Docket No. C177-111 vacated before becoming effective.

[FR Doc. 83-19265 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-386-000]

Consolidated Gas Supply Corp.; Application

July 12, 1983.

Take notice that on June 23, 1983, Consolidated Gas Supply Corporation (Applicant), 445 W. Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-386-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale of natural gas for resale to 8 distribution companies and one interstate natural

gas pipeline company, and the rendition of a related limited-term storage service for Texas Eastern Transmission Corporation (Texas Eastern) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to sell a total of 7,500,000 dt equivalent of natural gas per year for a three year limited-term to Algonquin Gas Transmission Company (Algonquin), The Brooklyn Union Gas Company (Brooklyn Union), Central Hudson Gas & Electric Corporation (Central Hudson), Elizabethtown Gas Company (Elizabethtown), Long Island Lighting Company (Long Island Lighting), New Jersey Natural Gas Company (New Jersey Natural), Philadelphia Gas Works (Philadelphia Gas), Public Service Electric & Gas Company (Public Service), and United Cities Gas Company (United Cities), as shown below. The sale is proposed to occur on August 31st of each year of the three-year term pursuant to the May 31, 1983, limited-term surplus gas sales agreements. It is stated that title to the gas would pass from Consolidated to each of the buyers on the date of sale, by transfer of title to the natural gas in place within Consolidated's underground storage facilities.

Buyer	Quantity dt equivalent
Algonquin	1,920,300
Brooklyn Union	429,624
Central Hudson	35,802
Elizabethtown	358,020
Long Island Lighting	716,041
New Jersey Natural	397,797
Philadelphia Gas	1,074,061
Public Service	2,506,143
United Cities	62,212
Total	7,500,000

Applicant advises that the gas supplies proposed to be sold would be used by the buyers to assist them in meeting the daily requirements of their present customers during the term of the agreement. Applicant states that the volumes proposed to be sold are surplus to the needs of its present customers. All sales are proposed to be made at the rate specified in Applicant's Rate Schedule E, which is currently $4.0331 per dt equivalent of gas.

It is stated that the natural gas purchased each year would be stored for withdrawal by the buyers during the ensuing winter heating season and used to satisfy the buyers' high priority winter requirements. It is indicated that Texas Eastern has agreed to render a limited-term storage and transportation service for the buyers, which are all regular resale customers of Texas Eastern, and has requested authorization to perform such services in Docket No. CP83-385-000. Applicant proposes to render a storage service to Texas Eastern to enable Texas Eastern to store such natural gas for the buyers.

Applicant states that the proposed storage service would be rendered on a best-efforts basis pursuant to a limited-term storage service agreement between applicant and Texas Eastern, dated May 31, 1983, and consists of an annual storage capacity quantity of 15,000,000 dt equivalent of gas and a storage demand quantity of 150,000 dt equivalent per day. Applicant reports that half of the storage capacity would be utilized by Texas Eastern to provide storage service for the sales by Applicant and the remaining 7,500,000 dt equivalent of storage capacity would be made available to the buyers by Texas Eastern under its existing rate schedules. The proposed storage service would be rendered under Applicant's Rate Schedule GSS. It is stated that deliveries of gas by Texas Eastern to Applicant and by Applicant to Texas Eastern would be made at existing interconnections between their pipeline facilities, and therefore, no new facilities need to be constructed in order to provide the proposed sales and storage services.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 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 intevene 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. 83-19266 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-606-000]

Duke Power Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 1, 1983, Duke Power Company (Duke Power) tendered for filing a supplement to the Company's Electric Power Contract with Rutherford Electric Membership Corporation. Duke Power States that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 139.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following additional delivery: Delivery Point No. 16 with a designated demand of 2,300 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately succeeding the effective date.

Duke Power requests an effective date of May 13, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 27, 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. 83-19267 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-607-000]

Duke Power Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 1, 1983, Duke Power Company (Duke Power) tendered for filing a supplement to the Company's Electric Power Contract with the Town of Forest City. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 237.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in contract demand: Delivery Point No. 2 from 17,000 KW to 15,000 KW and Delivery Point 3 from 0 to 6,800 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests an effective date of May 24, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Town of Forest City and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the 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 27, 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. 83-19268 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-376-000]

El Paso Natural Gas Co.; Application

July 12, 1983.

Take notice that on June 14, 1983, El Paso Natural Gas Company (Applicant) P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP83-376-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, uprating and operation of certain pipeline facilities and the delivery of additional volumes of natural gas to Southwest Gas Corporation (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would increase the maximum allowable operating pressure (MAOP) of approximately 9.1 miles of existing 10¾-inch O.D. and 16-inch O.D. Nevada Loop Line from 650 psig to 730 psig, commencing at Applicant's Topock compressor station and terminating at milepost 9.1, all located in Mohave County, Arizona. Applicant would also construct and operate approximately 7.5 miles of 20-inch O.D. pipeline, commencing at milepost 9.1 and terminating at a new interconnection point between the facilities of Applicant and the 9.6 mile 20-inch O.D. pipeline proposed to be acquired by Southwest Gas Transmission Company (SGTC) from Transwestern Pipeline Company in Docket No. CP83-284-000 (also on file with the Commission and open to public inspection). Under the authority of Section 2.55(a) of the Commission's General Policy and Interpretations Applicant would also construct, modify and operate the following facilities: (1) Restage the existing 1,130 horsepower Topack compressor on the 16-inch O.D. Nevada Loop Line and modify, install and test appurtenant station piping, control and telemetering equipment; (2) install control, telemetering and recording equipment at Applicant's existing Nevada sales meter station, and; (3) hydrostatically test 9.1 miles of 10¾-inch O.D. and 16-inch O.D. Nevada Loop Line in order to increase MAOP from 650 psig to 730 psig.

Applicant states that the construction, uprating and operation of the proposed facilities, together with the requested delivery authorization, are designed to permit Applicant to increase deliveries of natural gas to Southwest's southern Nevada distribution system from 162,000 Mcf/d to 193,000 Mcf/d in order to accommodate the priorities 1 through 5 requirements projected to occur during the next three years. Applicant states that the additional deliveries projected to serve growth in Southwest's priorities 1 through 2(c) are permitted by and consistent with the high priority growth provisions of Applicant's currently effective Permanent Allocation Plan which was approved in Docket No. RP72-6, *et al.*, and placed into operation on May 1, 1981. Applicant also states that additional volumes delivered for Southwest's priorities 3 and 5 requirements could be accommodated within the Monthly Average Day End Use Profiles that currently govern maximum priorities 3 and 5 deliveries to Southwest under the operation of Applicant's Permanent Allocation Plan.

Applicant further states that, upon grant of the authorizations requested herein, it would execute revised Exhibits A and B to an existing service agreement with Southwest to add the interconnection between Southwest and SGTC as a new delivery point to Southwest's southern Nevada system and file the revised exhibits with the Commission pursuant to Part 154 of the Commission's Regulations.

Applicant estimates the cost of constructing the proposed facilities at $3,342,609. Applicant states that it would finance the cost of construction through the use of internally generated funds.

Applicant estimates that the incremental cost of service attributable to the proposed facilities would total $1,201,000 during the first year of operation. This figure includes the $387,912 annual facilities charge proposed to be charged Applicant by SGTC in its pending application in Docket No. CP83-284-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 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. 83-19269 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-104-000]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges

July 12, 1983.

Take notice that on July 1, 1983, Florida Gas Transmission Company (FGT) tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Original Volume Nos. 1, 2 and 3.

The proposed rate change would increase FGT's jurisdictional revenues by $18,890,110 per year based on the twelve months ended March 31, 1983, as adjusted.

FGT states that copies of its rate filings were served on all of the Company's jurisdictional customers and the Florida Public Service Commission. Also, FGT states that Statement P will be filed within fifteen days from the date of its rate filing.

Any person desiring to be heard or to make any protests with reference to said filing should on or before July 19, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or protest in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19270 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-608-000]

Florida Power & Light Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 1, 1983, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendments Numbers Eleven and Twelve to Agreement to Provide Specified Transmission Service Between FPL and City of Homestead (Rate Schedule FERC No. 55).

FPL states that under Amendment Number Eleven, FPL will transmit power and energy for the City of Homestead as is required in the implementation of its interchange agreement with Seminole Electric Cooperative, Inc.

FPL further states that under Amendment Number Twelve, FPL will transmit power and energy for the City of Homestead as is required in the implementation of its interchange agreement with the City of Lakeland.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately.

Copies of the filing were served on the City of Homestead.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 27, 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. 83-19271 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-613-000]

Gulf States Utilities Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 1, 1983, Gulf States Utilities Company (Gulf States) tendered for filing proposed changes in the electric resale rate schedules presently on file with the Commission which are applicable to service to the City of Abbeville, Louisiana (Abbeville). Gulf States states that Abbeville will switch from Rate Schedule WSD (Wholesale Power at Distribution Voltage) to Rate Schedule WST (Wholesale Power at Transmission Voltage). Both of these rate schedules are presently on file with the Commission. The rate schedule change will involve installation of a new substation by Abbeville and construction of a new transmission line by Gulf States; interim payment by Abbeville of a facilities charge; interim conversion of metered quanities reflecting transformation losses for billing purposes; and payment of cancellation charges upon early termination by Abbeville. Gulf States states that the reason for the proposed change is that Abbeville will achieve savings in its annual power costs by the switch to the WST rate schedule.

Gulf States has included in the filing a letter written by Abbeville's Mayor which raises questions about the circumstances surrounding the Agreement and Gulf States has suggested that such letter raises questions which merit inquiry by the Commission. Finally, Gulf States has asked that the necessary waivers be granted so that the proposed rates become effective for Abbeville as of January 1, 1983.

Copies of the filing were served upon the Cities of Abbeville and LaFayette and the utilities commissions of Texas and Louisiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19272 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-426-000, ER82-610-000, and ER83-115-000]

Jersey Central Power & Light Co.; Compliance of Refund

July 12, 1983.

Take notice that on June 27, 1983, Jersey Central Power & Light Company submitted for filing a compliance report on the amounts refunded under the above docket numbers, pursuant to the Commission's Order on May 31, 1983.

Schedule 1 is a summary of refunds including interest. Schedule 2 details the monthly billing determinants and revenues. Schedule 3 details the monthly revenue refund and associated interest.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, on or before July 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19273 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-384-000]

K N Energy, Inc.; Application

July 12, 1983.

Take notice that on June 23, 1983, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-384-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued exchange of natural gas with Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the terms of an amended gas exchange agreement providing for an additional delivery point for the delivery of gas by K N to Panhandle, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that K N and Panhandle entered into a March 27, 1970, gas exchange agreement, as amended, which provides for Panhandle to deliver volumes of K N's gas supply from Texas to K N at a point near Douglas, Wyoming, and for K N to deliver volumes of Panhandle's gas supply from Wyoming to Panhandle at Panhandle's Aledo plant in Oklahoma. A February 7, 1983, amendment to the exchange provides for a second delivery point from K N to Panhandle near Baker, Oklahoma. This exchange agreement is on file with the Commission as Rate Schedule TSTE-1 of Panhandle's FERC Gas Tariff, it is averred.

K N proposes herein to add a third delivery point to Panhandle in Grant County, Kansas, pursuant to the terms of a June 14, 1983, amendment to the exchange agreement. The Grant County delivery point is necessary to assure maintancence of adequate service to K N's customers served with the gas supplies received by K N from Panhandle at the Douglas delivery point, it is asserted. K N states that it does not presently have sufficient volumes of exchange gas available to deliver to Panhandle at the Aledo delivery point and the Baker delivery point to offset the volumes received from Panhandle at Douglas. As a result, a large exchange imblance has developed, K N avers. It is further averred that the Grant County delivery point is required to allow K N to reduce the existing exchange imbalance.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 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. 83-19274 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-14-000 (PGA 83-3)]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

July 12, 1983.

Take notice that on July 1, 1983 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on June 30, 1983 proposed to become effective August 1, 1983, and identified as follows:

Thirty-first Revised Sheet No. 4

Twenty-eight Revised Sheet No. 18

Eighth Revised Sheets No. 4-B

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision and Incremental Pricing Surcharge Provision.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 19, 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. 83-19275 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-15-000 (PGA83-2) (IPR83-2)]

Mid Louisiana Gas Co.; Proposed Change in Rates

(July 12, 1983.)

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 1, 1983, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-Seventh Revised Sheet No. 3a and Eighth Revised Sheet No. 3c to become effective August 1, 1983.

Mid Lousiana states that the purpose of the filing of Forty-Seventh Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment, a Purchased Gas Cost Surcharge and a Transportation Cost Adjustment resulting in a rate after current adjustment of 443.01¢. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period August 1, 1983 through January 31, 1984.

Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing 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 the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed in or before July 19, 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. 83-19276 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-16-000]

National Fuel Gas Supply Corp.; Proposed Tariff Change

July 12, 1983.

Take notice that on July 1, 1983, National Fuel Gas Supply Corporation ("National Fuel") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-Third Revised Sheet No. 4 proposed to be effective August 1, 1983.

National Fuel states that the purpose of this revised tariff sheet is to adjust National Fuel's rates pursuant to Article 17 (PGA) of the General Terms and Conditions. National Fuel further states that Forty-Third Revised Sheet No. 4 reflects an increase in National Fuel's rates of 3.51¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing 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 Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19277 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-105-000]

National Fuel Gas Supply, Corporation; Proposed Changes in FERC Gas Tariff

(July 12, 1983).

Take notice that National Fuel Gas Supply Corporation ("National Fuel"), on July 1, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by approximately $17,935,000 based on the twelve-month period ended April 30, 1983, as adjusted.

National Fuel states that its sales have declined to a level that prohibits its opportunity to earn its allowed return on equity. Further, National Fuel states that the increased rates are required to recoup increased costs incurred in operating and maintaining its system, including, but not limited to, increased cost of capital, increased wages and increased taxes.

The rates proposed reflect an overall rate of return of 12.72 percent which is required, National Fuel states, by its cost of capital, business risk and the need to attract capital.

National Fuel states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware and New Jersey.

Any person desiring to be heard or to protest said filing should file a petition to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19248 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

Niagara Mohawk Power Corporation; Filing

[Docket No. ER83-615-000]

July 12, 1983.

The filing Company submits the following:

Take notice that on July 5, 1983, Niagara Mohawk Power Corporation (Niagara) tendered for filing a cancellation of Niagara's Rate Schedule FERC No. 45, an agreement between Niagara and the Power Authority of the State of New York (PASNY) dated August 4, 1965 which was filed with the Federal Energy Regulatory Commission (FERC) on August 25, 1965.

This cancellation terminates the agreement that provides for the transmission of PASNY power and energy across Niagara's system to PENELEC at the New York-Pennsylvania State Line for redelivery to the Allegheny Electric Coop., Inc.

The service provided by Rate Schedule FERC No. 45 is now provided under an agreement approved by the Commission as Niagara's rate Schedule FERC No. 125. Niagara is requesting a cancellation date of July 1, 1983.

Copies of the filing were served upon the Power Authority of the State of New York, New York State Electric and Gas

Corporation, Allegheny Electric Cooperative Inc., and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19249 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-612-000]

Pacific Power & Light Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 5, 1983, Pacific Power & Light Company (Pacific) tendered for filing Pacific's Revised Appendix 1 for the state of Washington. The Revised Appendix 1 calculates an average system cost for the state of Washington applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific's Average Cost System Methodology, which was adjusted by Bonneville Power Administration, is as follows:

Jurisdiction	Filed rate [1]	Adjusted [1]
Washington	29.21	29.10

[1] Mills per kilowatt hour.

Pacific requests an effective date of February 11, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 29, 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. 83-19250 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-614-000]

Pacific Power & Light Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 5, 1983, Pacific Power & Light Company (Pacific) tendered for filing Pacific's Revised Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific's Average Cost System, which was approved by the Bonneville Power Administration, is as follows:

Jurisdiction	Filed rate	Adjusted rate [1]
Montana	28.52	28.36

[1] Mills per Kilowatt hour.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 24, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Service Commission of the State of Montana and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19251 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-610-000]

Public Service Company of Oklahoma and Southwestern Electric Power Co.; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) on July 1, 1983, jointly tendered for filing a proposed transmission service tariff. The tariff provides for transmission service over and to or from certain direct current facilities now under construction or planned to be constructed which, when completed, will establish interconnections between the Electric Reliability Council of Texas and the Southwest Power Pool.

The tariff is filed pursuan to the "Order Requiring Interconnection and Whelling, and Approving Settlement," which was issued on October 28, 1981 and modified by the "Order on Rehearing," issued January 29, 1982, by the Commission in *Central Power and Light Company, et al.*, Docket Nos. EL79-8 and E-9558.

The Companies request that the tariff become effective August 31, 1983, or such later date as the Commission may determine.

Copies of the filing have been sent to the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19252 Filed 7-15-83 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-609-000]

Southwestern Electric Power Company; Filing

July 12, 1983.

The filing Company submits the following:

Take notice that on July 1, 1983, Southwestern Electric Power Company (SWEPCO) tendered for filing proposed tariff changes applicable to electric service rendered to the City of Siloam Springs, Arkansas. SWEPCO has proposed a two-step rate increase consisting of Step A rates, proposed to be effective on August 31, 1983, which would increase revenues from sales to Siloam Springs by $1,399,075, based on calendar year 1983, and Step B rates, proposed to be effective on September 1, 1983, which would increase revenues from sales to Siloam Springs by $1,547,210, based on calendar year 1983. SWEPCO states that it seeks to increase its rates for service to Siloam Springs in order to earn a fair return on its investment in utility property and thereby to be able to attract the capital it needs to complete its construction program.

Copies of the filing have been served on Siloam Springs and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 28, 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. 83-19253 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-17-001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 12, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 1, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Volume No. 1, the following sheets:

(A) Sixty-sixth Revised Sheet No. 14, Sixty-sixth Revised Sheet No. 14A, Sixty-sixth Revised Sheet No. 14B, Sixty-sixth Revised Sheet No. 14C, Sixty-sixth Revised Sheet No. 14D, Eighth Revised Sheet No. 14E

(B) Alternate Sixty-sixth Revised Sheet No. 14, Alternate Sixty-sixth Revised Sheet No. 14A, Alternate Sixty-sixth Revised Sheet No. 14B, Alternate Sixty-sixth Revised Sheet No. 14C, Alternate Sixty-sixth Revised Sheet No. 14D Eighth Revised Sheet No. 14E

(C) Second Alternate Sixty-sixth Revised Sheet No. 14, Second Alternate Sixty-sixth Revised Sheet No. 14A, Second Alternate Sixty-sixth Revised Sheet No. 14B, Second Alternate Sixty-sixth Revised Sheet No. 14C, Second Alternate Sixty-sixth Revised Sheet No. 14D, Eighth Revised Sheet No. 14E.

These sheets are being issued pursuant to provisions of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff contained in Section 12.4, Demand Charge Adjustment Commodity Surcharge; Section 23, Purchased Gas Cost Adjustment and Section 27, Electric Power Cost (EPC) Adjustment. These sheets are also being issued pursuant to Article XI, Staten Island LNG Facility, of the Stipulation and Agreement in Docket No. RP78-87 approved by Commission Order issued April 4, 1980. They are being filed in the alternative, as described in more detail below.

The changes proposed therein consist of:

(1) Changes in the DCA Commodity Surcharges pursuant to Section 12.4 of Texas Eastern's FERC Gas Tariff;

(2) Pursuant Section 23 of Texas Eastern's FERC Gas Tariff a PGA decrease of $.369/dth in the demand component of Texas Eastern's rates and a decrease of $.2882/dth in the commodity component based on a net reduction in the projected cost of gas purchased from producer and pipeline suppliers and a negative balance in Account 191 as of May 31, 1983 adjusted by a special one-time adjustment to give effect to (1) the impact for the period June 1, 1983–July 31, 1983 of market-out provisions exercised effective June 1, 1983 in certain producer contracts (2) the effect of rate reductions proposed by Texas Eastern's pipeline suppliers, United Gas Pipeline Company and Southern Natural Gas Company, for the months of June, 1983 and July, 1983 and (3) the effect for the months of June, 1983 and July, 1983 of reductions in the prices of gas imported from Canada and Mexico;

(3) Removal from rates of the special surcharge of 3.01¢/dth accepted by the Commission by order issued July 30, 1982 in Docket No. TA82-2-17-000 to be effective for the period August 1, 1982 through July 31, 1983;

(4) Projected Incremental Pricing Surcharges for the period August, 1983 through January, 1984 pursuant to Section 23 of Texas Eastern's FERC Gas Tariff;

(5) Pursuant to Section 27 of Texas Eastern's FERC Gas Tariff changes in rates for sales and transportation services pursuant to Section 27 to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the twelve months beginning August 1, 1983 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC Account as of May 31, 1983;

(6) A reduction in the Rate Schedule SS rates to reflect a decrease in actual costs incurred in operating and maintaining the Staten Island LNG facility for the twelve month period ended February 28, 1983, pursuant to the provisions of Article XI of the RP78-87 Stipulation and Agreement.

Pursuant to the Commissioner's Order issued July 30, 1982 in Docket No. TA82-2-17-000, there is included therein the required information regarding Texas Eastern's Order Nos. 93 and 93-A special surcharge. In addition, pursuant to the clarification by the Commission contained in its Order of December 6, 1982 in the same docket, Schedule No. 2D reflects those contracts under which retroactive payments to producers under Orders Nos. 93 and 93-A have been made for the PGA surcharge period for the instant filing.

The proposed effective date of the above traffic sheets is August 1, 1983.

As stated above this filing reflects the impact of Texas Eastern's exercise of its market out provisions in certain of its

gas contracts. Texas Eastern's projected cost of gas has been reduced to reflect such impact beginning August 1, 1983. In addition Texas Eastern proposes therein to reduce its rates to be effective August 1, 1983 by the impact of Texas Eastern's exercise of such market out provisions for the period June 1, 1983 through July 31, 1983. This is to be done by means of adjustment to the Account 191 balance upon which Texas Eastern's proposed Surcharge Adjustment is based. The amount of the adjustment applied to the Account 191 balance is the estimated reduction in purchased gas costs for the period June 1, 1983 through July 31, 1983 for the gas contracts under which the market out of provisions were exercised. In addition Texas Eastern proposed therein to reduce its rates to be effective August 1, 1983 by the impact of considerable reductions in the rates of two of its pipeline suppliers and prices of gas imported from Canada and Mexico for the period June 1, 1983 through July 31, 1983. This is also to be done by means of an adjustment to the Account 191 balance upon which Texas Eastern's proposed Surcharge Adjustment is based. The estimated cost decrease resulting from such price reductions as well as Texas Eastern's exercise of market out provisions for the period June 1, 1983 through July 31, 1983 is calculated on Schedule No. 2E of this filing.

On June 30, 1983 Texas Eastern moved to place into effect effective as of July 1, 1983 tariff sheets filed in Docket No. RP83–35. The rate adjustments described above have been calculated for application to the underlying rates to be effective on July 1, 1983 as a result of Texas Eastern's Motion filed June 30, 1983 in Docket No. RP83–35. The tariff sheets described in paragraphs (A), (B) and (C) above are based upon underlying July 1, 1983 rates contained in Proposals 1, 2, and 3, respectively, set forth in Texas Eastern's Motion filed in Docket No. RP83–35. Texas Eastern proposed that the Commission accept the appropriate set of tariff sheets in paragraphs (A), (B), or (C), based upon the Commission's action with respect to Texas Eastern's Motion filing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with rule 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions or protests should be filed on or before July 19, 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. 83–19254 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–18–000]

Texas Gas Transmission Corp.; Proposed Change in FPC Gas Tariff

July 12, 1983.

Take notice that Texas Gas Transmission Corporation, on June 30, 1983 tendered for filing Second Revised Fortieth Revised Sheet No. 7 and Eighth Reised Sheet No. 7–B to its FPC Gas Tariff, Third Revised Volume No. 1. These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas's Purchased Gas Adjustment Clause.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing 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 2.11 and 2.14 of the Commission's Rules of Practice and Procedure with (18 CFR 385.211, and 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–19255 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP74–138 and CP74–139; Docket No. CP74–140]

Trunkline LNG Co. and Trunkline Gas Co.; Filing of Contingency Plan

July 12, 1983.

Take notice that on June 30, 1983, Trunkline Gas Company (Trunkline) filed with the Commission an LNG Supply Interruption Contingency Plan, dated July 1, 1983. Trunkline states its contingency plan is filed in response to Ordering Paragraph (G) of Opinion No. 796 (58 FPC 726).

The Contingency Plan provides for three areas of potential supply difficult: (1) Condition "A"—LNG outage occurring in Algeria, (2) Condition "B"—LNG outage due to failure of facilities at Lake Charles, Louisiana, and (3) Condition "C"—Loss or unavailability of three tankers dedicated to this project.

The Contingency Plan covers the three full winter periods until the end of March 1986. Trunkline states the Contingency Plan's basic schedules and tables for Conditions "A", "B", and "C", reflect the total sales requirements and depict utilization of the various sources of supply which would be available in the event of LNG outage, demonstrate the capability of Trunkline in meeting portions of the shortfall expected, and finally present a summary of contingent actions which could be taken by individual customers to mitigate the impact of a supply deficiency resulting from a disruption in LNG deliveries.

Copies of Trunkline's LNG Supply Interruption Contingency Plan (1983–1986) are on file with the Commission and open to public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–19256 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–370–000]

United Gas Pipe Line Co.; Application

July 12, 1983.

Take notice that on June 6, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83–370–000 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 in order to effect a direct sale of up to 2,000 Mcf per day on an interruptible basis to Seacoast Products, Inc. (Seacoast), an existing on-system direct customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that this sale will be performed only when United's supplies of natural gas exceed the current demands of its customers for certificated firm service, taking into account storage volumes and the requirements for storage injection. It is indicated that the gas would be used at Seacoast's fish

processing plant in Moss Point, Mississippi.

The application shows that the rate for the subject sale would be the sum of $1.05 per Mcf plus the weighted average cost of gas per Mcf on United's system for the billing month. Additionally, it is indicated that Seacoast would pay any incremental pricing surcharge which may be applicable to the sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 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 jurisdication conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, 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 United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19257 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No.TA83-2-11-001]

United Gas Pipe Line Company Filing of Revised Tariff Sheets

July 12, 1983.

Take notice that on June 30, 1983, United Gas Pipe Line Company (United) tendered for filing Revised Substitute Revised Sixty-First Revised Sheet No. 4, to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 19, 21, 23 and 24 of United's Tariff.

United hereby requests that the Commission waive the applicable provisions of § 153.38 of its Regulations under the Natural Gas Act and the notice requirements of Section 154.22 of those regulations to permit United to file, out of time, an additional reduction to its PGA rates and to make such rates effective July 1, 1983.

Copies of the proposed tariff sheets and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Copmmission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19258 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-61-000]

West Lake Arthur Corp.; Change in Rates

July 12, 1983.

Take notice that West Lake Arthur Corporation (WLAC), on June 30, 1983 tendered for filing Fifth Revised Sheet No. 4A of its FERC Gas Tariff, Original Volume No. 1. The tariff sheet was filed pursuant to the Purchased Gas Cost Adjustment provision contained in Section 15 of WLAC's tariff.

Copies of the filing have been served upon WLAC's jurisdictional customer and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19259 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-52-001]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

July 12, 1983.

Take notice that on July 1, 1983, Western Gas Interstate Company ("Western") filed herein Substitute Twenty-first Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on November 1, 1982.

Western states the proposed change in rates reflected on Substitute Twenty-first Revised Sheet No. 3A is being filed in accordance with the Commission's Order of October 29, 1982, in conjunction with the agreements reached with the Commission Staff at a technical conference held on December 29, 1982.

As a result of both the Commission Order and the technical conference, Western was required to correct several errors made in its original filing in Docket TA83-1-000 which resulted in changes to its rates. The current adjustment amount for each of Western's Divisions was reduced to reflect (1) lower supplier prices charged to Western and (2) modifications made to the Base Tariff Rate incorporating in that Base Tariff Rate the average cost of gas contained in Western's current general rate filing in Docket RP82-85. The Current Adjustment for each Division was changed as follows: Northern Division went from 14.63¢ to 6.56¢ per MCF, Western Division went from 77.94¢ to 71.41¢ and the Southern Division went from 72.70¢ to 35.69¢.

The surcharge adjustments for each Division were also revised, in order to reflect changes made in the deferred subaccount balances upon which the surcharges are based. The applicable subaccount ending balances for this

PGA period were revised due to other revisions made to prior period subaccount balances in the PGA periods covered under Dockets TA82–1–000 and TA82–2–52. The changes made in these earlier revised dockets have been carried forward by the normal flow of the subaccount system. The Northern Division surcharge increased from [42.32¢] to [6.24¢], the Western Division surcharge increased from [34.82¢] to [6.63¢] and the Southern Division surcharge increase from [0.48¢] to [2.12¢] per MCF.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission 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 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. 83–19260 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–52–000]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

July 12, 1983.

Take notice that on July 1, 1983, Western Gas Interstate Company ("Western") filed herein Twenty-second Revised Sheet No. 3A and Sixth Revised Sheet No. 3B to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheets are proposed to become effective on July 1, 1983.

Western states the proposed change in rates reflected on Twenty-second Revised Sheet No. 3A is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is [38.57¢] per Mcf; for the Western Division it is 45.67¢ per Mcf; and for the Southern Division it is [22.08¢] per Mcf. The proposed surcharge adjustment is [48.14¢] per Mcf for the Northern Division; [130.06¢] per Mcf for the Western Division and 100.57¢ per Mcf for the Southern Division.

Western states that any necessary reductions in its Southern Division rate will be made immediately following its completing a review of the Southern Division's purchase and sales volume imbalance for this PGA period.

Western also states that Sixth Revised Sheet No. 3B reflects the Projected Incremental Pricing Surcharge Adjustment for the Period May 1, 1983 through October, 1983 as required by § 282.602(a)(ii) of the CFR.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 19, 1983. Protests will be considered by the Commission 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 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. 83–19261 Filed 7–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 3206–000, *et al.*]

Hydroelectric Applications (City of New Martinsville 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: Major License.

b. Project No.: 3206–001.

c. Date Filed: January 20, 1983.

d. Applicant: City of New Martinsville.

e. Name of Project: New Martinsville Project.

f. Location: Ohio River, Wetzel and Marshall Counties, West Virginia, Monroe County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Michael Francis, City Attorney, City of New Martinsville, Brenner & Francis, P.O. Drawer 98, New Martinsville, West Virginia 26155.

i. Comment Date: September 19, 1983.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Hannibal Locks, Dam and reservoir and would consist of: (1) A proposed powerhouse containing two generating units with a total capacity of 34 MW; (2) an existing 270-foot-long tailrace with a bottom width of 107 feet and slide slopes of 3.5H:1V; (3) a new 138-kV transmission line 1,760 feet long; (4) a new 20-foot-wide access road 2,000 feet long; and (5) appurtenant facilities. The Applicant estimates the average annual generation would be 208 million kWh, and the total cost of the project would be $86,665,000. This application was filed during the term of Applicant's preliminary permit for Project No. 3206.

k. Purpose of Project: The project power would be used by the City of New Martinsville and excess power would be sold to Local utilities or other municipalities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

2a. Type of Application: License (Over 5 MW).

b. Project No.: 3494–001.

c. Date Filed: April 11, 1983.

d. Applicant: Noah Corp.

e. Name of Project: Allegheny Lock & Dam #6 Hydro Project.

f. Location: On Allegheny River in Armstrong County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Howard M. Hickey, Jr., President, & James B. Price, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801.

i. Comment Date: September 16, 1983.

j. Description of Project: The proposed run-of-river project would utilize the U.S. Army Corps of Engineers Allegheny Lock and Dam No. 6 and would consist of: (1) A new short intake channel, at the left dam abutment, and an intake structure integral with (2) a new powerhouse containing 3 turbine-generator units rated at 2,500 kW each for a total rated capacity of 7,500 kW; (3) a tailrace returning flow to the river approximately 200 feet downstream of the dam; (4) a new transmission line, 3,000 feet long, connecting to existing 12-kV lines; and (5) appurtenant facilities. The Applicant estimates that the

average annual energy output would be 42,000,000 kWh. Project energy would be sold to Allegheny Power Systems. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 3494.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

3a. Type of Application: Small Conduit Exemption.

b. Project No.: 7271–000.

c. Date Filed: May 11, 1983.

d. Applicant: Owensboro Municipal Utilities.

e. Name of Project: Elmer Smith Hydroelectric.

f. Location: At the discharge point of the Elmer Smith Generating Station on the Kentucky side of the Ohio River.

g. Filed Pursuant to: Section 30 of the Federal Power Act [16 U.S.C. 823(a)].

h. Contact Person: Mr. John Pace, Owensboro Municipal Utilities, 115 East Fourth Street, P.O. Box 806, Owensboro, Kentucky 42301.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed project, to be located adjacent to the existing Elmer Smith Generating Station discharge flume, would consist of: (1) A proposed powerhouse, which will contain an installed generating capacity of 850 kW; and (2) appurtenant facilities. The Applicant estimates the average annual energy generation to be 5,185 MWh.

k. Purpose of Project: The purpose of the project is to produce electricity to run the Elmer Smith Generating Station's cooling pumps.

l. This notice also consists of the following standard paragraphs: A2, A9, B, C, and D3b.

4a. Type of Application: Preliminary Permit.

b. Project No.: 7293–000.

c. Date Filed: May 18, 1983.

d. Applicant: Borough of Ellwood City, Pennsylvania.

e. Name of Project: Ellwood City Hydroelectric Project.

f. Location: On Connoquenessing Creek in Lawrence County, PA.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy Meehan, Jr., Council President, Borough of Ellwood City, 525 Lawrence Avenue, Ellwood City, Pennsylvania 16117.

i. Comment Date: September 19, 1983.

j. Description of Project: The proposed project would consist of: (1) A new 25-foot-high, 250-foot-long concrete-gravity overflow dam; (2) a proposed reservoir having a surface area of approximately 100 acres elevation 785 feet m.s.l.; (3) two 3,300-foot-long steel penstocks; (4) a new powerhouse containing two generating units having a total rated capacity of 6,000 kW; (5) an 8,500-foot-long proposed transmission line; (6) two permanent access roads; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 27 GWh.

k. Purpose of Projects: The energy derived at the proposed project would be utilized by the Applicant for municipal purposes.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, 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 36 months. The work proposed under the preliminary permit would include feasibility studies, which would involve the technical, economic, financial and environmental feasibility of the Project, and Field investigations which would include geotechnical, topographic, and environmental investigations. The geotechnical investigations would require disturbances to gain access for the placement of drilling equipment. The drilling process would include 5 to 15 holes, each about 4 inches in diameter varying in depth from approximately 10 to 60 feet. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $350,000.

5a. Type of Application: 5 MW Exemption.

b. Project No: 7342–000.

c. Date Filed: June 6, 1983.

d. Applicant: Manti City Corporation.

e. Name of Project: Manti Canyon Lower Project.

f. Location: Manti Creek in Sanpete County, Utah.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Patrick M. Hanlon, Esq., Shea & Gardner, 1800 Massachusetts Avenue, N.W., Washington, D.C. 20036.

i. Comment Date: August 29, 1983.

j. Description of Project: The Lower Manti project is currently a constructed operating unlicensed project. Part of the project is located within the Manti-Lasal National Forest. Proposed improvements as described in the exemption application include: (1) Removal of the existing log diversion structure; (2) abandonment and restoration of a ¾-mile-long open power canal; (3) removal of a ⅞-mile-long steel penstock; (4) removal of a turbine/generator unit rated at 105 kW; (5) removal of a 40-foot-long, 30-inch-diameter tailrace; (6) constructing a diversion structure approximately 2,080 feet upstream from the present point of diversion; (7) installing a 10,200-foot-long, 24 to 30-inch-diameter buried penstock; (8) rebuilding a portion of the existing powerhouse to contain; (9) a proposed turbine/generator unit rated at 1,285 kW; (10) a proposed 50-foot-long concrete tailrace; and (11) appurtenant facilities. Existing project works to remain in use include: (1) the 20-foot-long, 4.16-kV transmission line; and (2) appurtenant facilities. The proposed improvements will increase the average annual energy from 750 MWh to 5,024 MWh.

k. Purpose of Project: Project energy is and will continue to be used by the city in their power system.

l. This notice also consists of the following standard paragraphs: A1, A9, 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.

6a. Type of Application: Preliminary Permit.

b. Project No: 7375–000.

c. Date Filed: June 16, 1983.

d. Applicant: Henderson and Evansville Associates.

e. Name of Project: Uniontown and Evansville Hydro Project.

f. Location: On the Ohio River in Henderson County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Joel Rector, Esquire, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: September 19, 1983.

j. Description of Project: The proposed project would utilize facilities at U. S. Army Corps of Engineers' Newburgh Locks and Dam, and would consist of: (1) A new penstock; (2) a proposed powerhouse with a total installed capacity of 55 MW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 320 GWh. All power generated would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities,

along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $125,000.

m. *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.

7a. Type of Application: Application for License for Major Project.

b. Project No: 7270–000.

c. Date Filed: April 25, 1983.

d. Applicant: Northern Wasco County People's Utility District.

e. Name of Project: White River Hydroelectric Project.

f. Location: On White River, in Wasco County, near Maupin, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§791(a)—825(r).

h. Contact Person: Mr. O.K. McCausland, International Engineering Company, 180 Howard Street, San Francisco, California 94105.

i. Comment Date: August 18, 1983.

j. Competing Application: Project No. 7206, Date Filed: 4/8/83.

The notice of the preliminary permit application for Project No. 7206 was issued on May 10, 1983, and expires on July 14, 1983.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) An 8-foot-high by 245-foot-long ogee-type concrete diversion weir with crest elevation at 1018.75 feet above msl replacing an existing weir at the same location and with the same crest elevation; (2) a sluiceway (3) an intake structure; (4) a 9-foot-diameter, 2320-foot-long concrete-lined modified horseshoe tunnel; (5) a 9-foot-diameter, 245-foot-long concrete-lined pressure shaft and tunnel combination; (6) a 7.5-foot-diameter, 138-foot-long steel-lined penstock; (7) a powerhouse to contain three Francis-type, turbine-generating units with a total rated capacity of 8.5 MW operating under a head of 170 feet and producing about 33 million kWh of energy annually; (8) a 160-foot-long, 75-foot-wide tailrace; (9) a 1650-foot-long, 69-kV transmission line from the project to the Applicant's existing Tygh Valley substation; and (10) 2.8 miles of access road. Except for a visitors information center to provide information on the power generation history of the site, no new recreational development has been proposed by the Applicant. It is estimated that the total construction cost of the project would be about $14.8 million. Lands of the United States (1.8 acres) under the administration of the Bureau of Land Management would be affected by the project.

l. Purpose of Project: The Applicant plans to either retain the project power to serve its customers or sell to the Bonneville Power Administration or other utilities.

m. This notice also consists of the following standard paragraphs: A2, B, and C.

8a. Type of Application: Major License (Under 5 MW).

b. Project No: 2920–001.

c. Date Filed: May 28, 1983.

d. Applicant: Truckee-Donner Public Utility District.

e. Name of Project: Boca Project.

f. Location: On Little Truckee River, near Truckee, in Nevada County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James Ward, Manager, Truckee-Donner Public Utility District, P.O. Box 309, Truckee, California 95734.

i. Comment Date: September 9, 1983.

j. Description of Project: The proposed run-of-river project would utilize the existing Bureau of Reclamation's Boca Dam, located on the Little Truckee River 1,800 feet upstream from its confluence with the Truckee River, and would consist of: (1) Expansion of one of two existing outlet conduits from 50-inch to 70-inch diameter for approximately 12 feet; (2) a bifurcation in the expanded outlet conduit with a 70-inch-diameter branch leading to a 90-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with the rated capacity of 2.4 MW and an average annual generation of 5.8 GWh; (4) a switchyard; and (5) 1,550 feet of 14.4-kV transmission line. Project power would be used to meet the Applicant's power demand. The project would affect lands of the Tahoe National Forest.

k. This notice also consists of the following standard paragraphs: A2, B, C, D1.

a. Type of Application: 5 MW Exemption.

b. Project No: 5018–002.

c. Date Filed: May 31, 1983.

d. Applicant: Digital Equipment Corporation.

e. Name of Project: Mill Pond.

f. Location: Assabet River, City of Maynard, Middlesex County, Massachusetts.

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: James K. Rogers, Digital Equipment Corporation, 146 Main Street, Maynard, Massachusetts 01754.

i. Comment Date: August 22, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 170-foot-long, 9.5-foot-high, granite-block dam; (2) an existing 18.75 acre resevoir with a usable storage capacity of slightly less than 18.75 acre feet with 1 foot of drawdown from a normal water surface elevation of 177 feet M.S.L.; (3) an existing 1,600-foot-long power canal and culvert; (4) an existing 18.23 acre upper and lower mill pond system at elevation 177 feet M.S.L.; (5) an existing intake trashrack structure; (6) an existing 49-foot-long, 7-foot-diameter steel penstock; (7) an existing powerhouse containing a single 125 kW turbine-generator to be restored; (8) an existing 300-foot-long tailrace canal; and (9) appurtenant facilities. The project would produce up to 800,000 kWh annually. The applicationi was filed during the term of Applicant's preliminary permit for Project No. 5018.

k. Purpose of Project: Energy produced at the project would be utilized by the Applicant in its manufacturing complex.

l. This notice also consists of the following standard paragraphs: A1, A9, 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.

10 a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No: 6721–000.

c. Date Filed: September 27, 1982.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Canyon Creek No. 1.

f. Location: Whatcom County, Washington; Canyon Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed project would consist of: (1) A screemed intake structure at the stream bed diverting water at an elevation of 2,200

feet; (2) a 16,000 foot-long, 66-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 2,600-kW; (4) a switchyard; and (5) a 69-kV, 0.76-mile-long transmission line.

The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 16.84 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

11 a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No: 6723–000.

c. Date Filed: September 27, 1982.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Granite Creek No. 2.

f. Location: Whatcom County, Washington; Granite Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed project would consist of: (1) A screemed intake structure at the stream bed diverting water at an elevation of 3,095 feet; (2) a 12,000 foot-long, 60-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 3,600-kW; (4) a switchyard; and (5) a 69-kV, 1.59-mile-long transmission line.

The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 28.32 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C & D3a.

12a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No.: 6739–000.

c. Date Filed: October 1, 1982.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Granite Creek No. 3.

f. Location: Skaget County, Washington; Granite Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 3,860 feet; (2) a 40,000-foot-long, 48-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 3,000-kW; (4) a switchyard; and (5) a 15-kV, 1.25-mile-long transmission line.

The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 19.43 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, & D3a.

13a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No.: 6740–000.

c. Date Filed: October 1, 1982.

d. Applicant: Northwest Resources Generating Company

e. Name of Project: Granite Creek No. 3.

f. Location: Skaget County, Washington; Granite Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 2,480 feet; (2) a 18,000-foot-long, 60-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 4,600-kW; (4) a switchyard; and (5) a short 69-kV, transmission line.

The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 29.80 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, & D3a.

14a. Type of Application: License (Less than 5 MW).

b. Project No.: 6879–000.

c. Date Filed: November 26, 1982.

d. Applicant: Southeastern Hydro-Power, Inc.

e. Name of Project: W. Kerr Scott Hydropower Project.

f. Location: On the Yadkin River in Wilkes County, North Carolina.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Charles B. Mierek, Southeastern Hydro-Power, Inc., 838 Arlington Drive, Tucker, Georgia 30084.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' W. Kerr Scott Dam and consist of: (1) A proposed 440-foot-long penstock; (2) a proposed powerhouse with an installed generating capacity of 4,850 kW; (3) a proposed one-mile long, 12.47 kV transmission line; and (4) appurtenant facilities. The Applicant estimates the average annual energy generation to be approximately 26.4 GWh.

k. Purpose of Project:

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

15a. Type of Application: License (Less than 5 MW).

b. Project No.: 6880–000.

c. Dated Filed: November 26, 1982.

d. Applicant: Southeastern Hydro-Power, Inc.

e. Name of Project: B. Everett Jordan Hydropower Project.

f. Location: On the Haw River in Chatham County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Charles B. Mierek, Southeastern Hydro-Power, Inc., 838 Arlington Drive, Tucker, Georgia 30084.

i. Comment Date: September 19, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' B. Everett Jordan Dam and consist of: (1) A proposed 19-foot-diameter, steel penstock; (2) a proposed powerhouse which will contain an installed generating capacity of 7.1 MW; (3) a proposed six-mile-long, 23-kV transmission line; and (4) a proposed 100-foot-long tailrace; and (5) appurtenant facilities. The Applicant estimates the average annual energy generation to be approximately 36.9 GWh.

k. Purpose of Project: The Applicant anticipates selling the energy output to Carolina Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

16a. Type of Application: Exemption (Less than 5MW).

b. Project No.: 7006–000.

c. Dated Filed: May 10, 1983.

d. Applicant: Neocene Explorations, Inc.

e. Name of Project: Charcoal Ravine.

f. Location: On Charcoal Ravine Stream in Sierra County, California near the Town of Sierra City.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. 2705 and 2708).

h. Contact Person: Mr. Richard Shank-Jackson, Star Route, Sierra City, California 96125.

i. Comment Date: August 26, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion structure at elevation 3,910 feet; (2) a 975-foot-long, 10-inch-diameter buried penstock; (3) a powerhouse containing a single 58-kW generating unit discharging into the North Fork Yuba River; and (4) a 1,500-foot-long transmission line to an existing Pacific Gas and Electric Company (PG&E) transmission line. Project energy would be sold to PG&E.

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.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3a.

17a. Type of Application: 5 MW Exemption.

b. Project No.: 7073-000.

c. Dated Filed: February 14, 1983.

d. Applicant: Tuck Industries, Inc.

e. Name of Project: Tuck Hydro Project.

f. Location: On Fishkill Creek in Dutchess County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. Mark A. Harrison, Tuck Industries, Inc., 1 LeFevre Lane, New Rochelle, New York 10801.

i. Comment Date: August 19, 1983.

j. Competing Application: Project No. 6516. Dated Filed: July 14, 1982.

k. Description of Project: The proposed project would be run-of-river and would consist of: (1) The existing Tuck Dam, approximately 200 feet long and 16 feet high, constructed of cut granite with a 100-foot-long spillway and historic provision of 16-inch-high flashboards; (2) a reservoir having minimal pondage and normal water surface elevation at 72 feet m.s.l.; (3) an existing intake structure and a new penstock, 8 feet in diameter and 295 feet long, leading to (4) a new powerhouse containing 3 turbine-generator units having capacities of 115 kW, 160 kW and 300 kW for a total rated capacity of 575 kW; (5) a tailrace returning flow to the creek approximately 320 feet downstream of the dam; (6) a new transmission line connecting to nearby existing lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,300,000 kWh. Project energy would be sold to the Central Hudson Gas and Electric Corporation. Project facilities are owned by the Applicant.

l. This notice also consists of the following standard paragraphs: A1, A9, 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.

18a. 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: September 12, 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.

19a. Type of Application: Preliminary Permit.

b. Project No.: 7303-000.

c. Date Filed: May 20, 1983.

d. Applicant: American Hydro Power Company.

e. Name of Project: F. Joseph Sayers Dam.

f. Location: On Bald Eagle Creek in Centre County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Peter A. McGrath, American Hydro Power Company, 4026 Chestnut Street, Philadelphia, Pennsylvania 19104.

i. Comment Date: September 23, 1983.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' F. Joseph Sayers Dam and Reservoir and would consist of: (1) A new powerhouse containing one or more generating units having a total rated capacity of 1,625 kW; (2) a new transmission line to interconnect with either a 46-kV transmission line located one-half mile from the site, or a 12-kV transmission line located one mile from the dam site; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,939,500 kWh.

k. Purpose of Project: The energy derived at the proposed project would be sold to the West Penn Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, 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 18 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 $50,000.

20a. Type of Application: Minor Constructed License.

b. Project No.: 7321-000.

c. Date Filed: May 31, 1983.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Macomb.

f. Location: on the Salmon River in the Town of Malone, Franklin County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202.

i. Comment Date: September 19, 1983.

j. Description of Project: The existing run-of-river project consists of: (1) A 77-foot-long, 32-foot maximum height concrete-gravity overflow-type dam having spillway crest elevation 570.7 feet m.s.l.; (2) a 38-foot-long, 25-foot-high intake structure along each bank; (3) a 6-foot-diameter, 60-foot-long riveted-steel gated waste tube along each bank; (4) a reservoir (Lamica Lake) having a surface area of 14 acres and a net storage capacity of 14 acre-feet at spillway crest elevation; (5) a 6.5-feet-diameter, 60-foot-long riveted-steel concrete-encased gated pipeline along the left (south) bank; (6) a powerhouse containing a generating unit having a rated capacity of 1,000-kW operated under a 51.5-foot head and at a flow of 310 cfs; (7) a tailrace; (8) a 2.4/34.5-kV substation; (9) a 0.07-mile-long 34.5-kV transmission line; and (10) appurtenant facilities.

k. Purpose of Project: Project energy is used by Applicant to serve its customers within its franchise area. Applicant estimates the annual generation averages 6,750,000 kWh.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

21a. Type of Application: Preliminary Permit.

b. Project No.: 7332–000.

c. Date Filed: June 2, 1983.

d. Applicant: MGH Power Company.

e. Name of Project: Big Creek.

f. Location: On Big Creek, within Trinity National Forest in Trinity County, California.

g. Filed Pursuant to: Federal Power Act, (16 U.S.C. 791(a)–825(r)).

h. Contact Person: MGA Power Company, David G. DeMera, Star Route Box 116–A, Carlotta, California 95528.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high concrete diversion structure with crest elevation 2,225 feet; (2) an 18-inch-diameter, 1,200-foot-long low pressure conduit; (3) a 16-inch-diameter, 7,200-foot-long steel penstock; (4) a powerhouse at elevation 1,300 feet containing two turbine generators with a total capacity of 474 kW and an average annual output of 1.45 GWh; and (5) a .3-mile-long, 12-kV transmission line connecting to Pacific Gas and Electric Company (PG&E) lines.

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. The estimated cost of these activities is $12,000.

k. Purpose of Project: The Applicant proposes to market power to PG&E.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

22 a. Type of Application: Application for License (5MW or Less).

b. Project No.: 7348–000.

c. Date Filed: June 2, 1983.

d. Applicant: Aquenergy Systems, Inc.

e. Name of Project: Woodside I Hydro Project.

f. Location: On the Twelve Mile Creek in Pickens County, South Carolina.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Kathy C. Dority, Agent, P.O. Box 8991, Greenville, South Carolina 29604.

i. Comment Date: September 9, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 24-foot high and 100-foot long stone masonry dam; (2) an existing reservoir with a surface area of 80 acres; (3) a steel penstock approximately 7 feet in diameter and 305-foot long; (4) an existing powerhouse with a total estimated capacity of 400 kW; (5) an existing tailrace channel; (6) transmission lines; and (7) appurtenant facilities. Applicant estimates the average annual generation of the project to be approximately 3,000 MWh. Project power would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A2, B, C, and D1.

23 a. Type of Application: Preliminary Permit.

b. Project No.: 7351–000.

c. Date Filed: June, 1983.

d. Applicant: Hugh A. Carter, Jr.

e. Name of Project: Ledbetter Creek Power Project.

f. Location: On Ledbetter Creek in Swain County, North Carolina.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Hugh A. Carter, Jr., 3715 Noble Drive, NW., Atlanta, Georgia 30327.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed project would be located within the Nantahala National Forest and will consist of: (1) A proposed diversion structure, approximately 35-foot-long, 3-foot-high, and 2-foot-wide; (2) a proposed pipeline with a total length of 3,700 feet; (3) a proposed penstock approximately 2,335-foot-long; (4) a proposed powerhouse to contain an installed generating capacity of 2 MW; (5) a proposed 150-foot-long transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output will be 9.5 GWh.

K. Purpose of Project: Power will be sold to either the Nantahala Power and Light Company or a Rural Electric Co-op.

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 preliminary permit for a period of 30 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 $25,000.

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.

24a. Type of Application: Preliminary Permit.

b. Project No: 7356–000.

c. Date Filed: June 10, 1983.

d. Applicant: Calaveras County Water District, Tuolumne Regional Water District and Tuolumne County, California.

e. Name of Project: Griswold Creek Hydroelectric.

f. Location: On Griswold Creek within Stanislaus National Forest in Tuolumne and Calaveras Counties, California.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. 791(a)—825(r)).

h. Contact Person: Steve Felte, General Manager, Calaveras County Water District, P.O. Box 846, San Andreas, California 95249.

i. Comment Date: August 19, 1983.

j. Competing Application: Project No. 6986. Date Filed 1/7/83. Public Notice Issued: 2/9/83.

k. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 3,300 feet; (2) a 4-foot-diameter, 3,500-foot-long low pressure pipeline; (3) a 3.5-foot-diameter, 2,500-foot-long steel penstock; (4) a powerhouse on the North Fork Stanislaus River at elevation 2,160 feet containing a turbine generator with a capacity of 8.8 MW and an average annual output of 24.8 GWh; and (5) a 3-mile-long, 17-kV transmission line connecting to a Pacific Gas and Electric Company line.

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. The estimated cost of these activities is $177,000.

1. This notice also consists of the following standard paragraphs: A8, A9, B, C and D2.

25a. Type of Application: Preliminary Permit.

b. Project No: 7362-000.

c. Date Filed: June 14, 1983.

d. Applicant: Mr. Chas. W. Cole, Jr.

e. Name of Project: Monroe Dam Water Power Project.

f. Location: On the Salt Creek in Monroe County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Chas. W. Cole, Jr., 501 East Monroe Street, Suite 350, South Bend, Indiana 46601.

i. Comment Date: September 8, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Monroe Dam and Reservoir and consist of: (1) A proposed powerhouse which will contain an installed generating capacity of 2.1 MW; (2) a proposed transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 12.8 GWh. The project would be located on Federal lands.

k. Purpose of Project: The Applicant plans to market the power output to utilities serving the area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, 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 $110,000.

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.: 7365-000.

c. Date Filed: June 14, 1983.

d. Applicant: Mr. Chas. W. Cole, Jr.

e. Name of Project: Huntington Lake Dam Water Power Project.

f. Location: On the Huntington Lake in Huntington County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Chas. W. Cole, Jr., 501 East Monroe Street, Suite 350, South Bend, Indiana 46601.

i. Comment Date: September 8, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Huntington Lake Dam and would consist of: (1) A proposed powerhouse which will contain an installed generating capacity of 3,150 KW; (2) a proposed transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 19.3 GWh. The project would be located on Federal lands.

k. Purpose of Project: The Applicant intends to market the power output to utilities serving the area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, 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 $110,000.

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.

27a. Type of Application: Preliminary Permit.

b. Project No.: 7366-000.

c. Date Filed: June 14, 1983.

d. Applicant: Mr. Chas. W. Cole, Jr.

e. Name of Project: C. M. Harden Dam Water Power Project.

f. Location: On the Big Raccoon Creek in Parke County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)—825(r).

h. Contact Person: Mr. Chas. W. Cole, Jr., 501 East Monroe Street, Suite 350, South Bend, Indiana 46601.

i. Comment Date: September 21, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' C. M. Harden Dam and would consist of: (1) A proposed powerhouse which will contain an installed generating capacity of 1,050 kW; (2) a proposed transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 6.4 GWh. The project would be located on Federal lands.

k. Purpose of Project: The Applicant intends to market the power output to utilities serving the area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, 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 $110,000.

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.

28a. Type of Application: Preliminary Permit.

b. Project No.: 7369–000.

c. Date Filed: June 15, 1983.

d. Applicant: Coggon Municipal Light Plant.

e. Name of Project: Coralville Mill Dam Hydro Project.

f. Location: On the Iowa River in Johnson County, Iowa.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Thomas M. Hayden, P.E., Shive-Hattery & Associates, P.O. Box 4438, Davenport, Iowa 52808.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 295 feet long and 14 feet high; (2) an existing small reservoir formed upstream having negligible storage capacity; (3) a proposed intake structure; (4) a proposed powerhouse to be located on the east side of the river; (5) existing transmission lines; and (6) appurtenant facilities. Applicant estimates the capacity of the project to be 2.2 MW, and the average annual energy generation would be 9.55 GWh.

k. Purpose of Project: The Applicant intends to market the power output to utilities serving the area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, 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, an, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $15,000.

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.: 7374–000.

c. Date Filed: June 16, 1983.

d. Applicant: Uniontown and Evansville Associates.

e. Name of Project: Uniontown and Evansville Hydro Project.

f. Location: On the Ohio River near Uniontown, Union County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Rector, Esquire, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: September 9, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Uniontown Locks and Dam, and would consist of: (1) A new penstock; (2) a proposed powerhouse with a total installed capacity of 65 MW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 350 GWh. All power generated would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $125,000.

m. *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.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption 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 or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption 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 small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applicatioins for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption 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 or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption 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, conduit exemption , or small hydroelectric exemption application, or a notice of intent to file

such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exemption: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption 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, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: 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.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed 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. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption application 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, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption 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 small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

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, .211, .214. 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 N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management 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.

D1. *Agency Comments*—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 National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statues. No other formal requests for comments 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. *Agency Comments*—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. *Agency Comments*—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 Energy Security Act of 1980, 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 a 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. *Agency Comments*—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 Federal Power 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 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 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: July 13, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-19333 Filed 7-15-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2398-6]

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:

Water Programs

• Title: State Concurrence on Secondary Treatment Variances (EPA ID 0138).

Abstract: Public owned treatment works (POTWs) may apply to EPA for a variance from secondary treatment requirements for a discharge into marine waters. Before EPA may approve an application, the State must review it and concur by letter.

Respondents: State water pollution control agencies.

• Title: Survey of Organic Chemicals, Plastics and Synthetic Fibers Industry (EPA ID 1026).

Abstract: EPA is surveying the industry to obtain information on types of products manufactured, production processes, amount of water used, wastewater characteristics and treatment technologies, and costs. The Agency will use the information to develop effluent limitation guidelines under 40 CFR Part 414.

Respondents: Businesses that formulate or manufacture organic chemicals in SIC major groups 2865 and 2969, and/or plastics and synthetic fiber products in SIC major groups 2821, 2823 and 2824.

Drinking Water Programs

• Title: Underground Injection Control Application and Reporting (EPA ID 0370).

Abstract: Owners/operators submit data on the monitoring and operations of injection wells. These data provide EPA/States with basic information for issuing permits, verifying that underground sources of drinking waters are not contaminated, and ensuring that injections are in compliance with the permit conditions.

Respondents: Owners/operators of injection wells.

Hazardous Waste Programs

• Title: Information Requirements for Hazardous Waste Incinerators (EPA ID 0999).

Abstract: In order to apply for permits, owners/operators of hazardous waste incinerators must collect

information on waste analysis, facility description, trail burn plan, performance, and operating record. EPA uses the data to ensure that these facilities meet performance standards.

Respondents: Owners and operators of hazardous waste incinerators.

* * * * *

Air Programs

• Title: NESHAP for Arsenic Emissions from Glass Manufacturing Plants (EPA ID 1081).

Respondents: Glass manufacturing plants.

• Title: NESHAP for Arsenic Emissions from High-Arsenic Copper Smelters (EPA ID 1082).

Respondents: High-arsenic copper smelters.

• Title: NESHAP for Arsenic Emissions from Low-Arsenic Copper Smelters (EPA ID 1089).

Respondents: Low-arsenic copper smelters.

Abstract for 1081, 1082, 1089: The proposed standards require certain information in order for EPA to determine the sources subject to the standards and whether those sources are applying the best available technology in their operations and maintenance practices.

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: July 11, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83-19146 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. 26003-CL-P-(13)-82, etc.]

Advanced Mobile Phone Service, Inc., et al.; Hearing

In re applications of Advanced Mobile Phone Service, Inc., File No. 26003-CL-P-(13)-82; United Telephone Company of Missouri, File No. 26041-CL-P-(21)-82; for a construction permit to establish a cellular system on frequency B in the Domestic Cellular Radio Telecommunications Service (DPCRTS) to serve the Kansas City, Missouri and Kansas modified Standard Metropolitan Statistical Area (SMSA).

In re applications of Cellular Mobile Systems of Missouri, Inc., CC Docket No. 83-662, file No. 26191-CL-P-(9)-82; McCaw Communications of Kansas City, Inc., File No. 26129-CL-P-(14)-82; Metro Mobile CTS, File No. 26064-CL-P-(8)-82; MCI/Mobile Radio Communications, Inc., File No. 26107-CL-P-(8)-82; Mid-America Cellular Systems, Inc., File No. 26137-CL-P-(8)-82; Western Union Telegraph Company, File No. 26071-CL-P-(7)-82, for a construction permit to establish a cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Kansas City, Missouri and Kansas, modified Standard Metropolitan Statistical Area; designating applications for consolidated hearing on stated issues.

Adopted June 24, 1983.

Released July 8, 1983.

By the Chief, Common Carrier Bureau.

Memorandum Opinion and Order Granting Application, Dismissing Application and Designating Application for Hearing

1. Presently before the Chief, Common Carrier Bureau, under delegated authority, are the captioned applications, filed by Cellular Mobile Systems of Missouri (CMS), McCaw Communications of Kansas City (McCaw), Metro Mobile CTS (Metro Mobile), MCI/Mobile Radio Communications (MCI), Mid-America Cellular Systems, Inc. (MACS) and Western union (WU) to construct cellular systems to serve the Kansas City, Missouri-Kansas, Standard Metropolitan Statistical Area (SMSA) on frequency Block A. Also before us are the applications of United Telephone Company of Missouri (United) and Advanced Mobile Phone Service (AMPS) to serve the same market on frequency Block B. United and AMPS have filed a Limited Partnership Agreement, together with a Joint Request for approval of the agreement, which would result in the granting of AMPS' amended application and the dismissal of United's application. Petitions to Deny have been filed against all the applications and responsive pleadings have been filed.

2. As discussed below, after carefully reviewing the applications and related pleadings, we find all applicants except McCaw and MACS to be fully qualified to construct and operate a cellular system in Kansas City. Because we find that the public interest would be served thereby, we will approve the AMPS/United Settlement Agreement and grant the AMPS application. Because the six non-wireline applications are mutually exclusive, we are designating them for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), and *further modified*, 90 FCC 2d 571 (1982). We are also designating a basic financial qualifying issue against MACS; a basic financial qualifying issue has already been designated against McCaw. *See* para. 14, *infra*.

AMPS Application

3. AMPS will be the remaining applicant for Block B (wireline) in the Kansas City market under the terms of a Limited Partnership Agreement submitted on November 2, 1982. In this Agreement, AMPS and united proposed to settle their electrically mutually exclusive applications in Kansas City by the creation of a limited partnership in which AMPS will have an 80 percent interest and United will have a 20 percent interest. Pursuant to the terms of the Agreement, United's application will be conditionally dismissed and the AMPS application amended to reflect the creation of the Limited Partnership. A similar Limited Partnership Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc.* (Los Angeles Wireline Order), FCC 83-124, released April 26, 1983.[1] We find the Commission's decision to be dispositive of all general objections to the Kansas City Agreement. Accordingly, we will address here only those objections to AMP's application not previously considered and resolved.

4. *Interconnection.* In its Petition to Deny, WU alleges that AMPS (a wholly owned subsidiary of AT&T) has failed to indicate with specificity its plans to insure adequate interconnection of the nonwireline's cellular system with the landline telephone network. On the contrary, AT&T has submitted an interconnection proposal [2] and both AT&T and AMPS are presently participating with many nonwireline applicants, among other parties, in Commission sponsored meetings to establish reasonable interconnection standards.[3] We therefore find that

[1] In the Los Angeles Wireline Order, the Commission required the parties to delete one provision of the Agreement. That requirement will be imposed here as well. *See* para. 61, *infra*.

[2] The interconnection proposal is described in two documents submitted by AT&T: Bell System Technical Reference, PUB43303, December 1981, and AT&T Technical Advisory No. 76, April 13, 1982.

[3] We decline to assume, as WU apparently does, that the local wireline carrier will not provide reasonable interconnection. In any event, if reasonable interconnection arrangements have not been formulated by the time AMPS files an application for a license to operate its cellular system, any grant to AMPS will be conditioned upon its providing reasonable interconnection. Advanced Mobile Phone Service, Inc. (*Pittsburgh Order*), CC Mimeo 1169, released December 8, 1982, note 8, *citing* 89 FCC 2d at 81-82.

AMPS has satisfied the requirements of the Cellular rules, and we decline to designate an issue in this regard.

5. *Proposed Charges.* WU argues that AMPS has failed to supply an adequately detailed schedule of proposed charges in its response to item 41 of FCC Form 401 and that AMPS' response is deficient and evasive. WU further alleges that AMPS had the advantage of reviewing the rate structures of its future competitors before specifying its own rates and that AMPS' failure to project its schedule of proposed charges is anticompetitive. We find that Exhibit 8 of AMPS' application, which provides an estimated range of proposed rates, is sufficient to enable us to find that AMPS' proposal will be in the public interest. WU's allegation that AMPS' action is anticompetitive is without merit. To the extent that the allegation refers to the proposed rates, it is premature. These are proposed rates, and the actual rates to be charged by any licensed cellular carrier for the Kansas City market are, in the first instance, within the jurisdiction of the Missouri State regulatorly authorities. *See Advanced Mobile Phone Service, Inc.* (Buffalo Order), CC Mimeo 1320, released December 14, 1982, at para. 4. If, after AMPS' rates have been considered by the Missouri Public Service Commission, specific allegations are raised that those rates are anticompetitive, we will then consider the issue. *Id. See also Reconsideration Order, supra,* at para. 84. No other allegations were raised against the wireline applicants here.

CMS Application

6. *Financial qualifications.* Petitioners MACS, Metro Mobile and WJ allege that CMS has not demonstrated its financial qualifications to construct and operate its proposed system. We find this argument to be without merit. CMS has projected a cost of $5,620,000 for the initial construction and first year operation in Kansas City. Graphic Scanning Corp. (Graphic), CMS' parent company, has committed itself to fund $6,300,000 for the Kansas City cellular system. The June 2, 1982, commitment letter from Graphic to CMS covers the projected costs of construction and operation for one year and specifically states that none of those funds have been committed to other cellular system applications or to other projects. We find that this satisfies the requirement of rules Section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. In *Advanced Mobile Phone Service, Inc.* (Chicago Order), 91 FCC 2d 512 (1982), the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets. The Commission further concluded that no financial issues should be designated for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Because petitioners have not raised any argument unique to the Kansas City application, those findings control the disposition of the financial arguments here. Thus, we find CMS financially qualified.

7. Petitioners WU, Metro Mobile and MACS also argue that CMS has underestimated the costs of its proposed cellular system, and MACS claims that CMS has failed to justify its proposed rates on the basis of its revenue requirements. CMS' cost estimates, as well as its proposed rates, are not unreasonable on their face; thus, we find that substantial and material issues have not been raised. The general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing. *See Chicago Order, supra,* at para. 13. The rates proposed by an applicant may be evaluated in the comparative stage of this proceeding to the extent that they are relevant to the issue designated in para. 62, *infra.* See *Report and Order,* at para. 78.

8. *CGSA (de minimis).* Metro Mobile and MACS allege that CMS's CGSA (Cellular Geographic Service Area) extension beyond the Kansas City SMSA is more than *de minimis,* and is therefore in violation of Section 22.903(a) of the cellular rules.[4] The extension here is permissible under the cellular rules and policies. CMS has defined its Kansas City CGSA to include a small area of non-SMSA territory lying outside the perimeter of the Kansas City SMSA. The extension reaches a maximum of 7 miles outside the SMSA. The total area of the extension is 92 square miles, which amounts to 2.8 percent of the area of the Kansas City SMSA. It includes the city of Leavenworth, Kansas, which lies on the Kansas-Missouri border adjacent to the Kansas City SMSA. Although the incursion is 21% of the cell area, the extension permits service to a contiguous area which would not likely be served by any licensee in another SMSA because the other SMSAs adjacent to Leavenworth are further away and have less community of interest than does Kansas City. Therefore, we find that extension of the CGSA to include Leavenworth is *de minimis,* and it is unnecessary to designate an issue here. We will condition the authorizations to the effect that CMS will not be protected in these areas, and if another licensee is awarded a grant specifically for the Leavenworth area, CMS will have to coordinate with that licensee and provide interferance-free operation. The coordination may require CMS to pull back the CGSA and 39 dbu contours. See Section 22.902(d) of the rules. However, no comparative advantage will be granted CMS on the basis of the Leavenworth extension, since coverage of the Kansas City SMSA itself is the standard for comparison. *See Reconsideration Order, supra,* at para. 63.

9. *Site Availability.* MACS and WU assert that the CMS application should be returned as defective for failing to demonstrate site availability as required by Section 22.15(a) of the rules. Exhibit X of CMS' application includes letters from site owners expressing their willingness to make space available to CMS for its cellular facilities. In its reply, CMS submitted letters reconfirming the availability of the proposed sites.[5] We find that CMS has

[4] By letter dated September 27, 1982, Metro Mobile alleges that cell site 8, as amended, extends beyond CMS' proposed CGSA and is thus a further violation of Section 22.903(a). Our treatment of this *de minimis* extension is discussed *infra,* at note 5.

[5] CMS submitted an amendment dated September 13, 1982, which further indicated the availability of its proposed cell site locations. The amendment also changed the location of cell site 8. CMS alleged that the original cell site 8 was lost and that the replacement cell site would have no substantial impact upon CMS' system proposal. We accepted this revision as a minor amendment because loss of the original site was caused by circumstances beyond CMS' control. Metro Mobile objected to this cell site relocation as a major amendment because the reengineered cell extended beyond the boundaries of the Kansas City SMSA as well as CMS' proposed CGSA, and included areas previously not covered by the original cell. We continue to hold that this is a minor amendment, and we find that the extension of the new 39 dbu contour outside the CGSA is acceptable as a minor change. The area now included by the reengineered cell is rural farm land with no population centers. Linwood, Kansas, the nearest community outside the 39 dbu contour, is within a non-SMSA area and has a total population of 323. The new cell site is 3 minutes north (18 miles) of the original site and was acquired to avoid any significant increase in the coverage area of the cell. CMS lost area as a result of the relocation and reduced its ERP to produce an integrated service area that was within four square miles of the cell originally plotted. Acceptance of the new cell site location will not prejudice any of the applicants because CMS will not be given any comparative advantage for the extension outside the boundaries of the Kansas City SMSA.

made an adequate showing of site availability. An applicant need not have a binding agreement or absolute assurance of the availability of a proposed site but rather must show that it has obtained reasonable assurance that its proposed site is available. *See Pittsburgh Order, supra,* note 3, at para. 8. Accordingly, we find no reason to designate a site availability issue against CMS.

10. *Market Study.* MACS questions the validity and reliability of CMS' market study. In response, CMS submitted a detailed analysis which purports to validate its market study and argues that the ability to meet anticipated public demand is a comparative rather than a qualifying issue. After reviewing the materials submitted by CMS, we agree with CMS' argument raised on this issue. CMS' ability to meet anticipated demand is a comparative issue which may be examined in hearing under the issues designated in para. 62, *infra.*

11. *Character Issue and Section 1.65 and 22.13(a)(5).* WU alleges that CMS has failed to comply with Sections 1.65 and 22.13(a)(5) of the Commission's Rules and that proceedings pending against Graphic Scanning, its parent corporation, bear substantially on CMS' fitness to be a Commission licensee. WU claims that CMS has failed to disclose that petitions to deny have been filed against applications of Graphic subsidiaries for authority to provide two-way services in the Domestic Public Land Mobile Radio Services. Thus, it claims that CMS did not answer candidly items 34 and 37 of FCC Form 401, and that Sections 22.13(a)(5) and 1.65 were violated.[6] WU also argues that CMS' lack of candor in its cellular application as well as the allegations raised against Graphic in *ASD,*[7] warrant denial of CMS' application or, in the alternative, designation of a character issue.

12. We conclude that WU has failed to raise substantial and material questions of fact. In *Metrocom of St. Louis* (St. Louis Order), CC Mimeo 2045, released January 28, 1983, at para. 27, we stated that our rules do not require disclosure of applications which have petitions to deny pending against them. Moreover, the Commission has already held that the character of Graphic would be examined in the *ASD* proceeding and would not be included in cellular application proceedings. *See Chicago Order, supra,* at n. 19. Consistent with that decision, the Commission reserves the right to reexamine and reconsider the qualifications of CMS to hold a cellular license should *ASD* be resolved against any of CMS' affiliates, parent companies or against any of their principals. *See* para. 70, *infra.*

13. *Other Allegations.* We have also considered the other objections made against the CMS application, and we find that they raise no substantial issues. These allegations involve: (a) Lack of designated control point, which CMS adequately specified in Exhibit IV; (b) faulty antenna sketches,[8] which we have reviewed and find acceptable; (c) inadequate service and maintenance proposals, which CMS clearly addressed in Exhibits IV and VII and Appendices VII–A and VII–D; (d) lack of a separate FCC Form 401 for each proposed cell site, which our rules do not require; (e) antenna radiation interference, which the design of CMS' antenna prevents and which has not been substantiated by Petitioner WU; (f) inconsistencies in proposed channel capacity, equipment utilization, CGSA coverage, grade of service, voice security techniques and number of transmitters, which CMS adequately addressed in its reply. To the extent that these items raise comparative issues rather than basic ones, they may be examined in the comparative portion of this proceeding, under the issues designated in para. 62, *infra.*

McCaw Application

14. *Financial Issues.* Petitioners Metro Mobile, MACS, CMS and WU challenge McCaw's financial showing, arguing that McCaw has failed to demonstrate the availability of sufficient funds to construct and operate its proposed system. McCaw's estimated cost of construction and first year operation for Kansas City is $12,881,000. McCaw has not arranged financing for each of its four applications in the top-30 markets (Kansas City, San Jose, San Francisco and Denver), but rather has developed a package to cover the $55.8 million cost of all four. In the *San Jose Order,*[9] the Bureau examined McCaw's financing arrangements and found there to be a substantial and material question of fact about McCaw's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning McCaw's overall financial package for all four markets. We will not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to McCaw's financial qualifications in the *San Jose* proceeding to be dispositive of the issue here, and we reserve the right to reexamine and reconsider any authorization to McCaw in the event that McCaw's Kansas City application is granted as a result of the comparative hearing.[10]

15. Petitioners Metro Mobile and Western Union also allege that McCaw's estimated construction and operation costs for Kansas City are underestimated. Specifically, they argue that McCaw has understated the costs of its channel equipment by $1.23 million and omitted the costs of its mobile units. In opposition, McCaw responds that the cost of all channels is included in its construction costs. McCaw relies on the testimony of Edwin A. Hopper to support its claim that all channels will be installed (See Reply, Attachment A). In addition, the allegation regarding the purchase of McCaw's mobile units is without merit. Section 22.917 of our rules does not require that the cost of mobile equipment be included in an applicant's financial projections. *See San Jose Order, supra,* at para. 10. We therefore conclude that petitioners have failed to raise any serious question regarding costs that has not been adequately explained by McCaw in its Opposition, and we therefore decline to designate a financial issue in this regard.

16. *Tranfer of Control.* Petitoner Metro Mobile alleges control of McCaw may be transferred prior to completion of

[6] Item 34 of Form 401 requires the applicant and each party to the application to disclose information regarding the revocation of any license or denial by the Commission of any application for permit or license. Item 37 requires the applicant to disclose whether it, or any party directly or indirectly controlling it, is presently a party in any matter referred to in item 34. Section 22.13(a)(5) of the Commission's rules requires applications to be maintained "substantially accurate and complete in all significant respects in accordance with the provisions of Section 1.65 [of the Commission's Rules]." Section 1.65 requires that applicants maintain the accuracy and completeness of information furnished in a pending application. WJ alleges that CMS violated Section 22.13(a)(5) by failing to correctly answer Question 33(f) of FCC Form 401. This argument is without merit. Question 33(f) inquires as to whether the applicant is "directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens". WU argues that CMS' negative response is a material misrepresentation and evidences a lack of candor in its cellular application. In response, CMS claims its negative reply to Item 33(f) was an inadvertent error and that the foreign citizenship of a Vice President of CMS' parent company was fully disclosed on page 1, Exhibit 1, Vol. 1 of its application.

[7] A.S.D. Answer Service, Inc., *et al.*, FCC. 82–391, released August 24, 1982.

[8] MACS questioned the accuracy of CMS' antenna sketch for cell site 7. CMS admitted a drawing error, and by minor amendment dated August 2, 1982, a new vertical profile sketch was submitted to remedy the error. The new sketch did not change CMS' proposed coverage from cell site 7.

[9] GTE Mobilnet of San Jose (*San Jose Order*), CC Mimeo 3974, released May 6, 1983.

[10] The *San Jose Order* stated that petitioners in this proceeding may file motions for limited intervention in the *San Jose* proceeding on the financial issues.

McCaw's proposed cellular system. Specifically, Metro Mobile alleges that API, McCaw's source for back-up equity funding, may acquire a controlling interest in the applicant prior to construction. Petitioner's argument is premised on API's financial guarantee letter (App. Exhibit 4, Appendix A, item 3) which provides that API will require an equity position commensurate with any funds which may ultimately be provided to McCaw.[11] This is a frivolous argument. Even though API may be in a position to acquire equity in McCaw at some future date, there is no evidence that API will assume control at this time or violate Section 310(d) of the Communications Act and Section 22.39 of our rules by consummating a transfer without prior approval.

17. *Site Availability.* Western Union alleges that McCaw has failed to demonstrate the availability of its proposed cell sites in violation of Section 22.15(a) of the Commission's Rules. McCaw has submitted copies of letters or lease option agreements with respect to each cell site proposed in the application. This showing complies with the cellular rules and demonstrates reasonable assurance that the proposed sites are available. *See* para. 9, *supra.*

18. *CGSA/de minimis Extensions.* Petitioner Metro Mobile argues that several of the proposed 39 dbu contours extend beyond the Kansas City SMSA to a degree which is more than *de minimis*, in violation of the cellular rules. We have examined the proposed cell sites which extend beyond the SMSA and conclude that the extensions here are *de minimis* and therefore permissible under the cellular rules and policies. Although eight of McCaw's proposed fourteen cells extend beyond the SMSA boundary, they do not extend into another central or secondary SMSA. *See* Section 22.903(a). In several cases, the extensions are due to the irregularities of the SMSA boundary, and in all cases, they appear to be a by-product of McCaw's effort to serve the populated areas within the SMSA. The areas covered by the extensions are mainly farmland with no population centers and are unlikely to be served by any other cellular system. Moreover, none of the eight cells extends beyond the SMSA boundary by more than 1.2 percent. Accordingly, we find that the extensions are *de minimis* and we see no reason to designate an issue here. McCaw will be granted no comparative advantage on the basis of these extensions and also will not be protected in these areas. *See* para. 8, *supra.*

19. *Public need survey.* MACS challenges the validity of McCaw's public need survey. Our rules do not require submission of a need survey with the application; the quality of the pubic need survey is a comparative rather than basic issue. *See* para. 62, *infra.*

20. *Antenna sketches.* WU alleges that McCaw's antenna sketch for cell site 1 omitted certain microwave antennae presently licensed to WU at that site. We find this allegation to be without merit. In its reply, McCaw responds that there are no existing antennae on the roof level of the building where McCaw proposes to install its structure. McCaw states that WU's microwave dishes are side-mounted at a lower level on the building. In addition, our rules do not require an applicant to submit antenna sketches depicting the location of all antennae at a particular site. We only require a sketch depicting the location of any existing and proposed antennae on a supporting structure. *See* Section 22.15(c). McCaw's proposed antennae will be the only antennae on that supporting structure. We find that McCaw's sketch complies with our rules.

Metro Mobile Application

21. *Financial Issues.* Petitioners WU, CMS and MACS allege that Metro Mobile has failed to establish its requisite financial qualifications. MACS asserts that Metro Mobile has violated 22.917(b) of the Commission's rules by failing to provide sufficient evidence of the availability of separate funding for each of the nine celluar applications that it filed. Petitioners also assert that Metro Mobile's bank commitment letter is defective for failure to include the ten-day notice requirement of Section 22.914(f).

22. Metro Mobile estimates its construction costs and first year operating expense for Kansas City to be $8,818,738. To finance its proposed system as well as systems in eight other markets,[12] Metro Mobile relies on a loan for $115 ion from the First National Bank of Chicago (First National). In *Cellcam, Inc.*, (Minneapolis Order), CC Mimeo 1573, Released December 30, 1982, the Bureau found that Metro Mobile had demonstrated reasonable assurance of the availability of this loan to finance its nine cellular applications including its Kansas City proposal. The Bureau also found that First National's letter of July 29, 1982, attached to Metro Mobile's reply, provided sufficient evidence that the requirements of Sections 22.917(b) and 22.917(f) would be met. The letter authorized Metro Mobile to allocate the amount of the credit package among its nine cellular systems and provided for ten-day written notification before repossession of any cellular equipment. Accordingly, we conclude that there is no basis for designating, for hearing any financial issue against Metro Mobile based on its ability to finance its commitments for Kansas City.

23. *Site Availability.* Petitioners allege that Metro Mobile has not demonstrated reasonable assurance that its proposed sites will be available. In its application Metro Mobile stated that it had received for each site proposed, a commitment to lease or to negotiate a lease for the land. On August 2, 1982, Metro Mobile tendered an amendment containing written evidence of site availability. The amendment was accepted as a minor amendment because it did not modify in any manner Metro Mobile's proposal but merely supplied the site lease commitments previously referenced in the application. Petitioners WU, MACS and CMS did not demonstrate that any of the proposed Metro Mobile sites would not be available. An applicant need not have a binding agreement or abolute assurance of the availability of a proposed site but rather must show that it has obtained reasonable assurance that its proposed site is available. *See Alabama Citizens for Responsive Public Television, Inc.*, 59 FCC 2d 1 (1976). Metro Mobile has met this burden. Also, we note that the statements from the lessors submitted by Metro Mobile which indicate the availability of the sites are dated prior to the June 7, 1982 filing date. [13] Based on these circumstances, we find no reason to designate a site availability issue.

24. *System Expansion.* CMS alleges that Metro Mobile has failed to adequately describe its plan for measuring system congestion. Metro Mobile's description of its plans for system expansion, contained in Exhibit 4 and Section IV of its Engineering Statement, fulfills the filing requirements contained in Section 22.913(a)(4). Metro

[11] *See San Jose Order, supra*, paras. 3–13, in which McCaw's financial arrangements with API are fully discussed.

[12] Metro Mobile has also filed applications for the Miami, Minneapolis, San Diego, Phoenix, Tampa, Cincinnati, Denver and Houston markets.

[13] The letter submitted for site 5 is dated after the filing date. Metro Mobile filed an amendment on August 2, 1982, proposing to relocate cell site 5 a distance of 0.2 miles to south with a slight increase in effective radiated power (ERP). Since the proposed changes did not alter the combined system coverage or the CGSA, we accepted the proposal as a minor amendment. *See* Section 22.23 of the rules.

Mobile's reply also supplied additional clarifying information concerning cell splitting criteria. Whether the proposal is sufficient to meet anticipated demand for service is an issue to be examined in the comparative portion of this proceeding. *Report and Order, supra,* at 502–03. We therefore decline to designate a basic qualifying issue with respect to this matter.

25. *Continuous and Reliable Service.* CMS alleges that Metro Mobile has failed to offer requisite assurance of continuous service. In its application, Metro Mobile submitted exhibits describing its service and maintenance plans which meet the requirements of our rules. *See* App. Legal Exhibit 10. These proposals may be examined in the comparative portion of this proceeding to the extent that they are relevant to the issue designated in para. 62, *infra.* Acordingly, we find that CMS has failed to raise a substantial and material question of fact, and we will not designate a basic qualifying issue with respect to this matter.

26. *Market Survey and Rate Structure.* MACS challenges the reliability of Metro Mobile's Market Survey as the basis for its proposed rate structure. An applicant's ability to meet anticipated demand, as well as its rate proposal, are comparative issues to be examined in the hearing portion of this proceeding. Moreover, Metro Mobile's proposed rates do not appear to be unreasonable on their face and are based on its projected costs. We, therefore, find that MACS' allegation is without merit.

MCI Application

27. *Financial Issues.* WU, MACS, Metro Mobile and CMS question whether MCI has demonstrated its ability to finance the construction and operation of its proposed system. WU and Metro Mobile allege that MCI has underestimated its construction and operation costs, and WU asserts that MCI has omitted the costs of certain equipment from its financial analysis. We find these allegations to be without merit. In the *Pittsburgh Order, supra,* note 3, the Bureau found MCI financially qualified to construct and operate in the twelve markets, including Kansas City, in which MCI filed. The petitioners have not raised any financial questions particular to the Kansas City application, and therefore the findings in the *Pittsburgh Order* control the disposition of their arguments here. MCI indicates that it has allocated at least $7,777,000 of its financial resources to its Kansas City venture. We find that this meets the requirements of rules Section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. MCI's cost estimates do not appear unreasonable and include the full costs of constructing all of its cell sites and the channel equipment necessary for the first year operation. In its reply, MCI clarifies its categorization of equipment costs. We find that WU has failed to raise any serious questions that have not been adequately explained by MCI in its Opposition. We therefore find it unnecessary to designate a financial issue.[14]

28. *System Congestion and Expansion.* CMS alleges that MCI has failed to adequately describe its basis for determining system congestion and its plan for system expansion. MCI's description of its plans for system expansion, contained in Vol. 1, Exhibits 5 and 6 and Vol. 2, Exhibits 16 and 21 of its application, fulfills the filing requirements of rules Section 22.913(a)(4). In addition, system expansion is a comparative issue to be examined in that portion of this proceeding. *Report and Order,* supra, at 502–03. Accordingly, we will not designate a basic qualifying issue in this regard.

29. *Site Availability.* WU and MACS contend that MCI has not demonstrated the availability of the sites proposed in its application. MCI has submitted (Exhibit 12) letters of intent for each proposed site evidencing the site owners' commitment to negotiate a site lease. This showing complies with the cellular rules and demonstrates reasonable assurance that the proposed sites are available.

30. *CGSA (de minimis).* Metro Mobile argues that several of the proposed 39 dbu contours extend beyond the Kansas City SMSA to a degree which is more than *de minimis,* in violation of the cellular rules. In its Opposition, MCI admits that four of its eleven cells project beyond the SMSA limits but claims that such extensions are both *de minimis* and justified on the basis of public need and the limited nature of the incursion into non-SMSA areas. We agree. Eight percent of the Platte City cell extends into Leavenworth County, Kansas, a county not included in any SMSA. The extension constitutes 1.4% of MCI's CGSA. More importantly, it provides coverage to Leavenworth, a city which abuts the Kansas City SMSA border. As we said in Paragraph 8, *supra,* in relation to CMS' application, extension into Leavenworth will allow service to a natural market unlikely to be served by any other nonwireline cellular system. This is a factor which the Commission considers relevant to *de minimis* determinations.[15]

31. The Kansas City cell appears designed to ensure coverage from Kansas City, Kansas, to the western boundary of the SMSA. Fourteen percent of the cell also extends beyond the SMSA boundary into a non-SMSA area where no major population centers exist. However, the area is transversed by Interstate Route 70 and U.S. Route 73, two major traffic arteries. In its reply, MCI claims that any attempt to cover these highways, especially U.S. 73, which is the boundary of the SMSA, would result in some overlap outside the SMSA. The area outside the SMSA covered by MCI's Kansas City cell is only 2.3% of the total area of its proposed CGSA. Similarly, the Olathe, Kansas, cell serves Route 10, another major traffic artery, and the community of De Soto, Kansas. De Soto, which is inside the Kansas City SMSA, abuts the boundary of the SMSA, and thus MCI's attempt to cover both De Soto and Route 10 results in some spillover outside the SMSA. The extension is also due to the irregularity of the Kansas City SMSA contour. The area of such extension, however, is less than 9 square miles and 7.3 square miles of that area is also covered by the Kansas City cell. Only two percent of the cell extends beyond the Kansas City SMSA, and the area covered exclusively by the Olathe cell constitutes one-tenth of one percent of the proposed CGSA.

32. Finally, the Blue Springs cell provides service to the east of Kansas City and also covers Interstate Route 70 and Oak Grove, Missouri, a community near the eastern boundary of the SMSA. The extension area includes a portion of Lafayette County, Missouri, which is outside the Kansas City SMSA. Coverage of the Lafayette County portion constitutes thirteen percent of the cell and 2.9% of the CGSA. The extension is mostly rural, includes no population centers, and lies in non-SMSA territory. Thus, the total extension of the four cells beyond the Kansas City SMSA is 6.7% of the total CGSA coverage. As indicated, the extensions include areas not covered by any SMSA and provide service to

[14] In addition, MACS challenges MCI's proposed rate structure. We find that MACS has failed to raise a substantial question in this regard. MCI's application details both projected revenues and expenses, and MCI states that its rates are set at a level which will yield enough revenues to cover anticipated costs within a reasonable time. Proposed rates may be exmained in the comparative portion of this proceeding.

[15] *See* FCC Public Notice entitled "Cellular Application Filing Procedures", Mimeo 2973, released March 24, 1982.

natural markets lying outside the SMSA which are unlikely to be served by another cellular system. After examining the amount of overlap and the proposed coverage of the four cells, we conclude that the extensions are *de minimis*, and we decline to designate an issue in this regard.

33. *Technical Defects/Concentration of Control.* MACS alleges that MCI's cellular proposal is flawed by technical defects. The allegations made by MACS are very broad and do not raise any specific, substantial or material questions of fact. We have reviewed these allegations and find that the deficiencies noted are minor in nature and correction of them would not affect MCI's CGSA or the 39 dbu coverage of its proposed system. MACS also claims that a grant of MCI's proposal would result in undue concentration of control by MCI of the RCC market in Kansas City. We find this allegation to be without merit. The Commission has specifically declined to adopt rules establishing ownership limits for cellular service, and we will not adopt such standards now. *See Report and Order, supra* at 487; *Reconsideration, supra,* at 68.

Western Union Application (WU)

34. *Financial Issues.* MACS contends that WU has failed to demonstrate its financial qualifications. WU has projected its total capital and first year operating expenses to be $8,357,000. This includes, in addition to construction costs and first year operation costs, debt service based on the lender's current prime interest rate and pre-grant expenses. In order to meet these expenses, WU relies on an $8,400,000 loan from the Manufacturers Hanover Trust Company. MACS argues that the bank commitment letter is insufficient for the following reasons: it is not a binding loan agreement; it is open-ended; it does not contain a commitment fee or collateral requirement; and there is no evidence that the bank has taken account of WU's overall projected business plan. MACS also asserts that the bank has failed to look into WU's other financial commitments. Even assuming that the loan is available, MACS alleges that WU may lack adequate funds because it has failed to allocate reserves for "cost overruns" in its financial analysis.

35. We reject MACS' allegation. The bank letter includes all necessary terms and conditions of the loan, including a statement that WU's overall financial position has been reviewed and found to be satisfactory. Under applicable precedent, this letter is acceptable as reasonable assurance that $8,400,000 will be available to WU. See *Multi-State Communications, Inc. v. FCC,* 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied* 440 U.S. 959 (1979). Moreover, despite petitioner's allegation that WU should have provided for "cost overruns," we only require that applicants estimate costs and demonstrate the availability of funds for construction and first year operation.[16] Accordingly, we will not designate a financial issue against WU.

36. *Tariffs and Rates.* CMS's alleges that WU improperly proposed to provide mobile equipment under tariff. In its reply, WU states that the schedule of equipment charges, which was attached to its model tariff, was not intended to be part of the tariff. Further, WU unequivocably states that it has no intention of offering mobile equipment under tariff. Based upon review of the pleadings and WU's application and response, we find the allegation to be without merit and we decline to designate this issue for hearing. We find nothing improper in WU's listing cellular mobile equipment charges in its application. *See also* Buffalo Order, *supra,* at para. 23.

37. MACS argues that WU failed to submit a revenue requirement study and that its rates are unjustified and unreasonable. WU replies that a revenue requirements study is not specifically required by the Commission; that rates, practices and classifications are strictly comparative criteria; and that the reasonableness of an applicant's rates is within the jurisdiction of the appropriate State Commission. We have never required the preparation of or the submission of revenue requirement studies. In addition, the reasonableness of intrastate rates is entirely within the jurisdiction of the States. With respect to the cellular proceeding, rates are relevant only as a comparative criterion. Therefore, we find WU has complied with our rules and that MACS has failed to raise a substantial question as to WU's revenue requirements and projected rates.

38. *Need Survey.* MACS challenges WU's need survey as an invalid and unreliable basis for its cellular design concept. The Commission expressly stated in the *Report and Order, supra* at 502, that applications are not required to show public need but that the demand to be satisfied by each applicant would be a comparative criterion. Therefore, any allegation about the validity of WU's survey should be properly raised during the comparative portion of this proceeding.

[16] We note that WU has available $43,000 in excess of its $8,357,000 obligation.

39. *Cross-subsidization Issue.* MACS argues that although WU states that it will share plant and overhead expenses between its existing telegraph company operations and its proposed cellular operations, it makes no mention of its intention to allocate costs between the two operations. MACS argues that WU's provision of cost-free facilities and operational capabilities to its cellular operations would involve unlawful cross subsidies between WU's existing services and its proposed cellular service. In its reply, WU submitted an affadavit of Mr. Gennaro V. Galderisi, Director fo WU's Capital and Economic Analysis, which states that all capital and operating costs associated with WU's cellular system are fully allocated costs based on actual average experience throughout WU operations and reflect no cross-subsidization. Based upon MACS' unsubstantiated allegation, and WU's Reply, we conclude that MACS has failed to raise a substantial and material question of fact warranting designation for hearing.

40. *Site availability.* CMS and MACS allege that WU has failed to demonstrate reasonable assurance of site availability. In its application, WU stated that it will own the station facilities applied for in its application and has made appropriate arrangements for use of the proposed transmitter sites. In its reply, WU states that it had successfully negotiated options to lease its proposed cell sites prior to the filing of its application. In addition, WU submitted copies of lease options for all its proposed sites. We note that these documents were all executed prior to the June 7, 1982 filing date. Accordingly, we find that WU's showing demonstrates reasonable assurance that the proposed sites are available. *See* para. 9, *supra.*

41. *Technical Issues.* MACS claims that WU: (a) Failed to provide engineering data used to determine each site's service area and 39 dbu contours; (b) failed to explain how numerous channels are to be combined on a single antenna at cell site A; and (c) exceeded the limit of 100 watts for effective radiated power (ERP) at cell site G. After careful review of WU's application and related pleadings, we find that WU has met the requirements of our rules. Complete engineering data for determining service area and 39 dbu contours, as well as channel combinations, were supplied in Item 26(a) of WU's Form 401. Therefore, as to allegations (a) and (b), we will not designate a technical issue. As to allegation (c), WU admits that the maximum power permissible was

exceeded along certain radials. WU submitted an affidavit of Daniel Klimek, Senior Director, Advanced Transmission System Engineering, which states that the error was an inadvertent miscalculation. WU filed an amendment on August 23, 1982, which reduced the transmitter power for cell site G in order that the maximum ERP would be 100 watts in the direction of maximum antenna gain. Although the amendment will result in a minimal decrease in the contour of cell site G, we accepted the amendment as minor since there will be no significant change in WU's proposed CGSA boundary[17] and no reduction of its 39 dbu coverage contour. Accordingly, we find that WU has met our technical standards, and we will not designate a technical issue for consideration.

MACS Application

42. *Financial Qualifications.* Petitioners CMS, WU and Metro Mobile allege that MACS has failed to demonstrate the availability of sufficient resources to construct and operate its proposed cellular system and has failed to adequately detail its projected costs. For the Kansas City proposal, MACS estimates its construction and first-year operating expenses to be $5,736,000. MACS has also filed cellular applications for Dallas-Ft. Worth and New Orleans with estimated costs of $7 million and $4.5 million, respectively, for a total of $17.2 million for all three markets. MACS relies on identical financing in all three markets. We will therefore dispose of the availability of finances issue for all three proposal in this order. Financial issues which are unique to the MACS proposal for Dallas and New Orleans, such as the accuracy of cost of estimates, will be disposed of when we reach applications for those markets.

43. In order to meet its expenses of $17.2 million, MACS relies on a capital commitment of approximately $20 million, from KCSI,[18] the ultimate owner of 90% of MACS stock, and projections of subscriber revenues. In its application (Exhibit 5, Appendix 2), MACS submits a balance sheet for KCSI showing cash and short-term investments of $17.8 million, accounts receivable of $52.1 million and current liabilities of $98.3 million.[19] In its reply, MACS revises the figure for cash and short-term investments upward to $19.2 million. The Commission's long standing standard for demonstrating financial qualifications has been net liquid assets, the difference between current assets and current liabilities. *See Chicago Order*, 91 FCC 2d 512, at para. 8. After reviewing the materials submitted in the application and pleadings, we are unable to conclude that the financing relied upon is available to MACS. The figure for "cash and short-term investments" does not indicate what percent of the total is comprised of short-term investments. MACS also does not specify the nature of these investments except to say in its reply that it means "near cash assets." We are thus unable to determine how readily these short-term investments can be converted into cash or what portion of the $19.2 million figure is cash rather than short-term investments. Therefore, we cannot include the $19.2 million figure in computing net liquid assets.

44. The MACS application also lists $52.1 million in accounts receivable. Under applicable precedent, at least 75 percent of these accounts may be counted toward net liquid assets, provided they have been properly aged for correction purposes. *See Celcom Communications Corporation of Georgia* (Atlanta Order), CC Mimeo 1988, released January 26, 1983. However, no information is provided as to the collectibility of these accounts. We are unable, therefore, to consider the accounts receivable as part of the applicant's current assets.

45. Since none of the current assets listed on KCSI's balance sheet may be considered available, net liquid assets do not cover the applicant's projected costs. In its reply pleading, MACS bolsters its financial showing with an affadavit from Donald L. Graf, principal of KCSI.[20] The affadavit states that as of the second quarter of 1982, KCSI has marketable equity securities which cost $5.5 million and are valued at $15.8 million. However, the Graf testimony fails to provide information as to current liabilities for the same time period. In addition, the affadavit fails to identify any of these marketable securities, and we are therefore unable to determine what amount, if any, is readily convertible to cash.[21] The affidavit is therefore of limited usefulness in demonstrating that the applicant has sufficient net liquid assets.

46. The affidavit of Donald Graf also states that KCSI entered into a $20 million revolving credit-term loan agreement with Chemical Bank of New York to provide additional funding "for such purposes as KCSI may need from time to time." However, no details of the agreement are provided including interest rates, terms of repayment or fees. Moreover, the affidavit does not state that the loan agreement is

[17] Subsequent to the staff's acceptance of this amendment, the Commission revised Section 22.23(c)(1) of the rules to specify that contraction of the CGSA is a minor amendment to an application. Order FCC 83-161, released April 22, 1983.

[18] KCSI, Kansas City Southern Industries, Inc., is a diversified holding company and the major financial participant in MAC'S cellular venture.

[19] A balance sheet for MACS was not submitted with the application but was subsequently tendered on June 25, 1982, as an amendment. The Chief, Mobile Services Division returned the amendment on September 20, 1982, as a major amendment and unacceptable for filing pursuant to the Commission's *Memorandum Opinion and Order on Reconsideration*, 89 FCC 2d 58 (1982), at para. 69. Informal objections to the MACS amendment were filed. On October 21, 1982, MACS filed an Application for Review seeking reversal of the Bureau's action and acceptance of the June 25th amendment. Responsive pleadings were filed. On June 24, 1983 (FCC 83-286), the Commission held that the Bureau had the authority to return the amendment and acted properly in doing so. In addition, the Commission remanded the amendment to the Common Carrier Bureau, Mobile Services Division, for further consideration and appropriate action. Accordingly, after further review, we will accept the June 25, 1982 amendment containing MACS' balance sheet. The omission of the balance sheet was due to the applicant's oversight as well as its good faith belief that the balance sheet for KCSI in support of its financial capacity was sufficient. We note that the MACS balance sheet does not affect MACS' financial showing and does not alter the conclusions we reach here.

[20] In its Petition to Deny, WU argued that MACS was not financially qualified because KCSI lacked sufficient resources to meet its commitment to MACS. In response, MACS supplied the affidavit of Mr. Graf to demonstrate that KCSI had sufficient, available funds to fulfill its commitment. On September 10, 1982, petitioner WU moved to strike the affidavit from MACS' Reply to Petition to Dismiss or Deny contending that the affidavit was additional, new financial information and thus a *de facto* "major" amendment.

On September 13, 1982, MACS tendered an amendment to its application which included the affidavit of Mr. Donald Graf. An Opposition to the amendment was filed by WU and MACS responded. On September 20, 1982, the Chief, Mobile Services Division, returned the amendment as major and unacceptable for filing pursuant to the Commission's *Memorandum Opinion and Order on Reconsideration*. *See* note 19, *supra*. On September 24, 1982, MACS resonded to WU's Motion to Strike. Finally, on October 21, 1982, MACS filed an Application for Review seeking reversal of the Bureau's action and acceptance of the "Graf" amendment. On June 24, 1983 (FCC 83-286), the Commission held that the Bureau had the authority to return MACS' amendment and acted properly in so doing. In addition the Commission remanded the amendment to the Common Carrier Bureau, Mobile Service Division, for further consideration and appropriate action. Accordingly, after further review, we will accept the Graf affidavit and the September 1, 1982 financial amendment. The affidavit raises no new issues and merely amplifies KCSI's financial commitment to MACS. We note that the affidavit does not alter the conclusions we reach here regarding MACS' financial showing and thus does not prejudice any party to this proceeding.

[21] In order to determine the liquidity and value of the marketable securities, they should be identified by the type of security, name of issues, and the name of the market or exchange on which traded and their current market value. *See* Advanced Mobile Phone Service, Inc. (New York Order), CC Mimeo 2418, released February 18, 1983, at para. 33.

earmarked by the bank for MACS' cellular ventures or that the funds are not committed to other obligations or projects of KCSI. Thus, the credit term loan agreement fails to demonstrate the availability of the required funds for MACS's three cellular proposals.

47. MACS also relies on projected revenues to meet its cellular expenses. The petitioners question the validity of these projections. Based on our review of MACS' projected revenues, we cannot conclude that these funds will be available. In the *Buffalo Order, supra,* at para 17, we recognized that cellular systems may generate revenues to offset construction and operating expenses even as construction progresses. However, without the benefit of a hearing, we are unable to determine the validity of the methodology used by MACS to arrive at its projected revenues. *See New York Order, supra,* note 21 at para. 34. Even though we cannot credit MACS with any specific amounts for projected revenues, marketable securities, cash and short-term investments, accounts receivable or loan agreements, we recognize that it is likely that MACS will be able to substantiate some or all of its revenue resources. Therefore, we will permit MACS to amend its application to provide additional information to the Administrative Law Judge (ALJ) concerning these categories of financial resources. The ALJ may use our summary procedures to resolve the financial issue if MACS submits amendments showing reasonable assurance.[22] However, even if MACS is able to demonstrate the availability of some or all of its revenue resources, MACS must still establish that it has sufficient current assets to offset its current liabilities of $98.3 million. *See* para 43, *supra.*

48. For the reasons discussed above, we conclude that MACS has failed to demonstrate reasonable assurance of the availability of funds necessary to construct and operate its proposed cellular systems. We will therefore designate an issue as to whether MACS is financially qualified in Kansas City and in the other two markets where MACS is an applicant. We have chosen to designate in this order a financial issue as to MACS' entire financing arrangement because we believe this approach is the most efficient way to consider the various MACS applications, *i.e.,* it can be determined whether MACS has financing for one market, two, or all three markets. MACS will at that point have greater discretion for deciding how many (and which) application to prosecute. The alternative is to examine each MACS application in hearing on a case-by-case basis. This approach duplicates the efforts of all parties and (in the event that MACS can demonstrate the availability of some but not all of its financial arrangement) depends not on which applications MACS prefers to prosecute but on the luck-of-the-draw as to which markets are examined (and in what order) by the Commission. We will therefore examine in hearing the overall financial package of MACS and, depending on how much funding is available, permit MACS to modify or dismiss other applications accordingly.[23] *See New York Order, supra,* at para. 35.

49. *Cost Estimates.* Exhibit 5, Appendix 2 of MACS application details its projected construction and operating costs for the Kansas City system. Pre-operating costs are included under "Installation" in Table 5–1. In its Opposition, MACS explains that the $6.7 million figure quoted in Ex. 5, p. 2 represents the total capital expenditures finding necessary for two years, not its estimated construction and first-year operating costs as WU alleged. The Commission has previously found that the general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing.[24] In addition, MACS' cost estimates do not appear unreasonable on their face and include the full costs of constructing all of its cell sites and the channel equipment necessary for the first year of operation. Therefore, we find that petitioners have failed to raise any serious questions that have not been adequately explained by MACS in its Opposition, and we decline to designate an issue based on MACS' estimated cost.

50. *Site Availability and Location.* WU and MCI allege that MACS has failed to provide sufficient evidence of site availability. In addition, WU argues that MACS erred in its designation of the address and geographic coordinates of cell site No. 1. In an amendment filed on July 21, 1982, MACS provided a sworn statement by Phillip S. Brown, President of MACS, which states that except for cell site No. 1, which KCSI owns, MACS had secured "binding, fully executed option and lease agreements" on each of the proposed Kansas City cell sites.[25] Mr. Brown's statement indicated that in each case, the options had been secured prior to the June 7, 1982 filing date. We accepted the amendment as minor, because it did not modify MACS' proposed service but merely supplied requisite evidence of MACS' site lease commitments. As to cell site No. 1, MACS tendered an amendment on September 23, 1982 correcting the coordinates of cell site No. 1. As the amendment was necessitated by an inadvertent clerical error and did not change the OGSA or the combined 39 dbu contours of MACS' proposed design, we accepted the amendment as minor.[26] The cellular rules do not require that copies of lease agreements or deeds of ownership be furnished. *See Advanced Mobile Phone Service, Inc.* (Philadelphia Order), CC Mimeo 1882, released January 21, 1983, at para 21. Accordingly, we find that WU and MCI have failed to raise a substantial question in this regard, and we decline to designate a site availability issue.

51. *Staffing, Maintenance and Operations.* WU alleges that MACS has failed to submit an acceptable proposal for service, maintenance and complaint procedures. In reply, MACS contends that it will maintain its base stations and related equipment in accordance with the highest standards of system operations and reliability. To this end, MACS states in its application that it will hire and maintain a technically capable staff of engineers and other personnel to assure that the system is well maintained and operated. MACS App. Ex. 4, pgs. 8–13. MACS further states that, if necessary, expanding needs can be met by the hiring of additional staff and/or the use of outside contractors. MACS has met our requirements for submission of operational and maintenance plans; and the relative quality of such plans may be examined in the comparative portion of

[22] As indicated previously, in addition to Kansas City, MACS has filed cellular applications for Dallas-Ft. Worth and New Orleans. In those markets, any applicant whose proposal is electrically mutually exclusive with MACS' application may file a motion for limited intervention on the financial issue in this proceeding.

[23] Because we are adding a qualifying issue, we will suspend the procedural deadline in Section 22.916(b)(4) and allow the Administrative Law Judge to require such additional evidence as may be necessary. See para. 68, *infra.*

[24] Chicago Order, *supra,* at para 13; *See also* Salem Broadcasting Co., Inc., 37 FCC 2d 115 (Rev. Bd. 1972).

[25] The Chief, Mobile Services Division, by letter of September 20, 1982, rejected the July 21, 1982 amendment insofar as it attempted to amend MACS' direct case, but invited MACS to resubmit the amendment to MACS' application. On October 21, 1982, MACS resubmitted the amendment.

[26] MACS originally filed an amendment on August 20, 1982, which, in part, sought to change the location of cell site No. 1. By letter dated September 20, 1982, the Chief, Mobile Services Division, returned that amendment for reasons unrelated to the instant modification. That letter also invited MACS to resubmit the cell site change for site No. 1. On September 23, 1982, MACS resubmitted the amendment.

this proceeding. *Report and Order, supra*, at 502–503. Accordingly, we decline to designate a qualifying issue with respect to this matter.[27]

52. *Ownership Issues.* Metro Mobile alleges that MACS' application may violate Section 310(b)(4) of the Communications Act, 47 U.S.C. 310(b)(4), and Section 22.4(g) of the rules, 47 CFR 22.4(g), in that the applicant may be owned by alien interests. Metro Mobile also argues that MACS' application violates the wireline/nonwireline distinction set forth in Section 22.902(b) of the rules and thus involves a conflict of interest issue. First, Metro Mobile's allegation regarding alien interest is without merit. In its reply, MACS states that KCSI, the ultimate owner of 90% of its stock, has been a Commission licensee since 1966 through its wholly owned subsidiary, Mid-America Television Company. When first acquiring its broadcast licensee, as well as in numerous intermediate renewals, Mid-America was found to be in compliance with the foreign ownership rules. The original application of Mid-America contained a survey which demonstrated that there was no foreign ownership in regard to KCSI stock. In addition, MACS submitted an amendment on September 13, 1982, providing foreign ownership information previously submitted as part of its reply.[28] The amendment contained the sworn statement of Mr. Albert Mauro, corporate Secretary and Transfer Agent for KCSI, which states that on the basis of corporate records the number of owners of record with foreign addresses is less than 1% of the total. On the basis of MACS' showings, we find that MACS' ownership information complies with the requirements of Section 310(b)(4) of the Communications Act and Section 22.4 of our rules. We therefore decline to designate an alien ownership issue.

53. In regard to the second allegation, Metro Mobile argues that a conflict of interest arises from the fact that Mr. William Deramus is both Chairman of the Board and largest single stockholder of KCSI and a corporate director of United Telecommunications, Inc. (United), a holding company which owns United Telephone Company of Missouri, one of the wireline applicants in the Kansas City market. We find that, without further evidence of Mr. Deramus' control and involvement in United, there is no violation of our Rules.[29] Petitioner has not come forward with any evidence that Mr. Deramus owns any equity in the United parent, or that as one of thirteen United directors he is directly involved in its subsidiary's cellular project. Petitioner's argument that Mr. Deramus' dual role will prevent effective competition between the wireline and nonwireline applicants in Kansas City is mooted by the Settlement Agreement between United and AMPS whereby United would withdraw its application for the wireline frequency and become a minority partner of the AMPS system. See *para.* 3, *supra.* In addition, under terms of the Settlement Agreement, United will have only a 20 percent interest and control will be vested in AMPS. Accordingly, under these circumstances, we find that Mr. Deramus' dual role does not present a problem and we will not designate an issue.

54. *CGSA.* WU and Metro Mobile allege that MACS has failed to provide coverage of at least 75% of its proposed CGSA in violation of Rules Section 22.903(a). In its Reply, MACS admits this technical deficiency and claims that the mistake was an inadvertent clerical error. By amendment dated August 20, 1982, MACS attempted to cure this patent defect by uniformly shrinking its proposed CGSA so as to comply with the Commission's cellular rules. MACS stated that the shortfall in 39 dbu coverage of approximately 10 percent resulted from a clerical miscalculation by its engineering consultants. MACS argued that the amendment was not major but, alternatively, if found to be major, MACS requested a waiver. WU filed a Motion to Dismiss the amendment. On September 13, 1982, the Chief, Mobile Services Division, returned the amendment as major and unacceptable for filing based on the Commission's *Memorandum Opinion and Order on Reconsideration*, 89 FCC 2d 58 (1982), at para. 69 and Section 22.23(c)(1) of the rules. Subsequently, on October 4, 1982, MACS filed an Application for Review of the staff's action. Responsible pleadings were filed.

55. On June 24, 1983 (FCC 83–286), the Commission held that the Common Carrier Bureau had the authority to return the MACS amendment and acted properly in doing so. However, the Commission remanded the amendment to the Common Carrier Bureau, Mobile Services Division, for further consideration and appropriate action. Accordingly, after further review, we will accept MACS' CGSA amendment. Acceptance of the amendment, which is critical to the prosecution of MACS' application, will not improve its comparative standing or result in any comparative advantage in the overall design of its cellular system. The purpose of the major amendment limitation, to preclude CGSA changes in order to prevent one-upmanship, is not applicable to MACS' request.[30] Based on the amendment and the pleadings submitted, we conclude that MACS' coverage deficiency resulted from a computational error based on improper use of the compensating polar planimeter by MACS' engineering consultants. This resulted in an over-estimation of both the 39 dbu contour areas and the CGSA in Kansas City. In order to cure this error, MACS' amendment proposed to reduce its CGSA uniformly. Accordingly, we will accept MACS' amendment, and we direct MACS to refile the original, returned amendment with the ALJ. Due to this circumstance, brief extensions of time may be granted at the discretion of the Administrative Law Judge (ALJ).

56. We note that acceptance of the CGSA amendment will not result in any comparative advantage to MACS. Petitioners claim that MACS should, at least, receive a comparative demerit if the amendment is accepted. We disagree. Acceptance of MACS' amendment is consistent with the Commission's recent decision holding that decreases in the CGSA are not major amendments. *See* note 17, *supra.* In addition, the special circumstances in this case warrant acceptance of MACS' amendment.[31]

Conclusions

57. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants except as indicated, to be

[27] WU also cites technical deficiencies in MACS' application. Specifically, WU alleges that MACS does not provide a coordinated expansion plan, that its predicted coverage will be affected by its failure to consider the proximity of transmit and receive antennas and that there are discrepancies in antenna height radiation patterns. MACS has adequately addressed these issues in its reply pleading. Accordingly, we will not address these objections further.

[28] The Chief, Mobile Services Division, by letter dated September 20, 1982 returned the September 13, 1982 foreign ownership amendment insofar as it attempted to amend MACS direct case, but invited MACS to resubmit the amendment to the MACS application. On October 21, 1982, MACS resubmitted the amendment.

[29] *See* Xerox Corporation, 74 FCC 2d 471, 492–93 (1979).

[30] In addition, the Commission recently held that decreases in the CGSA are not major amendments. *See* note 17, *supra.*

[31] Review of the MACS' application reveals that the applicant believe it had complied with our rules requiring coverage of at least 75% of its proposed CGSA. MACS, and its engineers, were well aware of this standard, but in making calculations and drawings to meet this standard, they introduced errors in their own figures.

legally, technically, financially and otherwise qualified [32] to construct and operate their proposed cellular systems except to the extent discussed here. As indicated above, the captioned MACS application does not comply with one of the cellular rules.[33] In the *Chicago Order, supra*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring MACS to bring its application into conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address this financial amendment in their rebuttal cases. We emphasize that the amendment ordered here may not be used to give MACS a comparative advantage in the hearing proceeding. As the Commission in the *Chicago Order* stated, in markets below the top-30, strict conformance with the rules will be required, and absent under unusual circumstances, the applicants will not be allowed to amend nonconforming applications. We further find that the grant of the Advanced Mobile Phone Service application, as conditioned below, will serve the public interest, convenience and necessity.[34]

58. Accordingly, it is ordered, pursuant to Section 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership Agreement filed by Advanced Mobile Phone Service, Inc. and United Telephone Company of Missouri is granted and the accompanying Limited Partnership Agreement is approved.

59. It is further ordered, That the amendment to the Advanced Mobile Phone Service, Inc., application is accepted, that the amendment is exempted from the cut-off provisions under Section 22.31(e) (3) and (4); and the amended AMPS application, File No. 2600–CL–P–(13)–82, is granted.[34a]

60. It is further ordered, That the request for withdrawal of the application filed by United Telephone Company of Missouri, File No. 26041–CL–P–(21)–82, is granted and the application is dismissed.

61. It is further ordered, That the authorization is conditioned upon AMPS' filing an amendment to the Limited Partnership Agreement which eliminates the language contained in Section 11.1 of the Agreement, imposing restraints on the alienation of partnership interests.[35]

62. It is furthered orderd, That pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Cellular Mobile Systems of Missoui, Inc. McCaw Communications of Kansas City, Inc. Metro Mobile CTS, MCI/ Mobile Radio Communications, Inc., Mid-America Cellular Systems, Inc., and Western Union Telegraph Company are designated for hearing in a consolidated proceeding upon the following issues: [36]

(a) to determine whether mid-America Cellular Systems, Inc. is financially qualified to construct and operate for one year its proposed cellular system;

(b) to determine on a comparative basis the geographic area and population that each applicant proposes to serve; [37] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service; [38]

(c) to determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;

(d) to determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's rates, charges, maintenance, personnel, practices, classifications, regulations and facilities including switching capabilities; [39] and

(e) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best seve the public interest, convenience and necessity.

63. It is further ordered, That the burden of proceeding with the introduction of evidence upon the financial issue, and the burden of proof, shall be upon Mid-America Cellular Systems, Inc.

64. It is further ordered, That the Separate Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[40]

---

[32] We recognize that the qualifications of Graphic, CMS' parent, may be in issue in CC Docket Nos. 82–587, *et al. See* note 35, infra.

[33] McCaw's application also does not comply with one of the cellular rules. *See* para. 14, *supra*.

[34] As in the case of Cincinnati, Cellular Communications of Cincinnati, Inc., CC Mimeo 3268, released April 1, 1983, the parties here raised an excessive number of trivial objections against each other. These objections have delayed and complicated processing with no apparent benefit to the parties or the Commission. We again urge parties to exercise more restraint and to limit their objections to matters of decisional significance. *See* Cincinnati Order, at para. 46.

[34a] The authorization will also be conditioned upon AMPS obtaining antenna structure clearances. AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authoriziation (FCC Form 463) will reflect these conditions.

[35] The Commission will withhold issuance of AMPS' authorization until the amendment is received by the Mobile Services Division, Common Carrier Bureau. We also remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

[36] There are two issues that are not to be considered in the comparative hearing. The first issue is the financial qualifications of all of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 469, 501–02 (1981). Except for MACS and MaCaw, we have found all of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Missouri, Inc., or its parent Graphic, to the extent that such qualifications may be affected by the issues include in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc., *et al. (ASD)*, CC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. The Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Missouri, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[37] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Considerations should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[38] In making this comparision, perference should be given to designs entailing, efficent frequency use, including not only the applicant's plans with regrad to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–03.

[39] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[40] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an initial decision in this proceeding. See Communications Act of 1934 as amended by section 409(c) (47 U.S.C. 409(c); Administrative Procedure Act section 554(d)) (5 U.S.C. 554(d); Section 1.1221 of the Commission's Rules.

65. It is further ordered, That the applicants shall file written notices of appearances under Section 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register**.

66. It is further ordered, That the hearing shall be held according to the procedures specified in Section 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

67. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under Section 1.276 of the Commission's Rules shall be taken directly to the Commission.

68. It is further ordered, That MACS is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under Section 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issues designated against MACS shall be determined by the Judge in the Judge's discretion.

69. It is further ordered, That except to the extent granted here, the Petitions to Deny filed by the parties against the captioned applications are denied.

70. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration for that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc. et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

71. It is further ordered, That any authorization granted to McCAW as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's financial qualifications and determined in *GTE Mobilnet of San Jose (San Jose Order)* CC Mimeo 3974, released, May 6, 1983.

72. It is further ordered, That any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

73. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82-435, released October 6, 1982, and is effective on its release date. Applications for review under Section 1.115 of the Rules of this order may be filed within 30 days of the date of public notice of this order (see Rule 1.4(b)(2)).

74. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-19300 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26027-CL-P-(3)-82 et al.]

Advanced Mobile Phone Service, Inc. et al.; Hearings

In re applications of Advanced Mobile Phone Service, Inc., File No. 26027-CL-P-(3)-82, for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the New Orleans, Louisiana, modified Standard Metropolitan Statistical Area.

In re applications of The Western Union Telegraph Company, CC Docket No. 83-717, File No. 26069-CL-P-(6)-82; Radiofone, Inc., File No. 26072-CL-P-(5)-82; Cellular Mobile Systems of Louisiana, Inc., File No. 26173-CL-P-(7)-82; Mid-America Cellular Systems, Inc., File No. 26133-CL-P-(5)-82, for a construction permit to establish a cellular system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the New Orleans, Louisiana, modified Standard Metropolitan Statistical Area, designating applications for consolidated hearing on stated issues.

Adopted June 30, 1983.

Released July 11, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order Granting Application and Designating Applications for Hearing

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are: (a) The captioned applications of Advanced Mobile Phone Service, Inc. (AMPS), The Western Union Telegraph Company (WU), Radiofone, Inc., (Radiofone), Cellular Mobile Systems of Louisiana, Inc. (CMS), and Mid-America Cellular Systems, Inc. (MACS), to construct cellular radio systems to serve the New Orleans, Louisiana, Standard Metropolitan Statistical Area (SMSA); and (b) various motions, petitions and pleadings related to the applications.[1] AMPS proposes use of the wireline allocation (frequency block B) and WU, Radiofone, CMS and MACS propose use of the nonwireline allocation (frequency block A).

2. Because we find that the public interest would be served thereby, we are granting the AMPS application. As discussed below, we find that the pleadings fail to raise any substantial and material issues requiring designation for hearing. The WU, Radiofone, CMS and MACS applications are mutually exclusive; accordingly, we are designating those applications for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982), *appeal dismissed sub nom., U.S. v. FCC*, Cir. No. 82-1526 (D.C. Cir., March 3, 1983).

WU Application

3. CMS and MACS filed petitions to deny or dismiss WU's application. Petitioners argue that: (a) WU has failed to demonstrate site availability; (b) WU improperly proposes to provide mobile equipment under tariff and its proposed rates are unjustified and unreliable; (c) WU is not financially qualified; (d) WU's need survey is unreliable, invalid and of no practical value; and (e) WU's application involves unlawful cross-subsidies.

4. *Site availability.* CMS contends that WU's statement in its application that it "will own the station facilities applied for in this application and has made appropriate arrangement for use of the transmitter sites proposed hear * * *" is insufficient to provide reasonable assurance of site availability. It argues that the application should be dismissed pursuant to Section 22.20(b)(5) of the Commission's rules, or in the alternative, designated for hearing on this issue. WU replies that it had successfully negotiated options to lease its proposed cell sites prior to the filing of its application and it certified to the Commission that appropriate arrangements had been made. In addition, WU attaches to its reply copies of the lease options for all of its sites. We find that WU's showing complies with the cellular rules and demonstrates reasonable assurance that the proposed sites are available. *Advanced Mobile Phone Service, Inc., (Philadelphia Order)* CC Mimeo 1822, released January 21, 1983, at para. 21.

5. *Tariff rates.* CMS contends that in violation of the Commission's rules, WU has included charges for customer equipment (mobile units) as part of its proposed tariffs. WU denies this allegation and replies that its schedule of charges for mobile and portable units was clearly attached to its model tariff,

[1] Petitions to defer Commission action on the AMPS application pending a grant of a construction permit for the non-wireline block of frequencies have been filed by CMS and Radiofone. *See* para. 39, *infra*.

and not included in the tariff. It points out that the schedule of charges is not numbered or titled consistently with the proposed tariff. MACS argues that WU failed to submit a revenue requirements study and that its rates are unjustified and unreasonable. WLU replies that a revenue requirements study was not specifically required by the Commission; that rates, practices and classifications are strictly comparative criteria; and that the reasonableness of an applicant's rates is within the jurisdiction of the appropriate State Commission.

6. We reject both allegations. First, based upon review of the pleadings and WU's application and response, we do not find support for CMS' allegation that WU has illegally included the costs of mobile equipment in its proposed tariff. *See Advanced Mobile Phone Service, Inc. (Buffalo Order)*, CC Mimeo 1320, released December 14, 1982, at para. 23. Second, we find MACS' rate allegations to be without merit. As WU responds, we have never required the preparation or submission of revenue requirement studies. The reasonableness of intrastate rates is within the jurisdiction of the States. *See Cellular Communications of Cincinnati, Inc. (Cincinnati Order)*, CC Mimeo 3268, released April 1, 1983, at para. 15. With respect to the cellular proceeding, rates are relevant only as a comparative criterion. Therefore, we decline to designate these issues for hearing.

7. *Financial Issue.* The aggregate of WU's construction and first year operating expenses is $7,739,000. To meet these expenses, WU is relying on a $7,800,000 loan from the Bank of America National Trust and Savings Association. MACS argues that the bank letter is inadequate for the following reasons: it is not a formal loan agreement; it is open-ended; it does not contain a commitment fee or collateral requirement; and there is no evidence that the bank has taken account of WU's overall projected business plan. MACS argues further that even assuming that the loan is available, WU may lack adequate funds because it has not included any margin for "cost overruns" in its financial demonstration.

8. We reject MACS' allegations. That bank letter includes all necessary terms and conditions of the loan, including a commitment fee and statement that WU's overall financial position has been reviewed and found to be satisfactory. Under applicable precedent, this letter is acceptable as reasonable assurance that $7,800,000 will be available to WU. *See Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979). Moreover, despite petitioner's allegation that WU should have provided for "cost overruns," we only require that applicants estimate costs and demonstrate the availability of funds for construction and first year operation. 47 CFR 22.917.[2] Accordingly, we decline to designate a financial issue against WU.

9. *Need issue.* MACS challenges WU's need survey as unreliable, invalid and of no practical value. However, the Commission expressly stated in the *Report and Order, supra* at 502, that indications of substantial public need for the services proposed would be a comparative and not basic criterion. Therefore, this allegation may be raised during the comparative portion of this proceeding.

10. *Cross-subsidies.* MACS argues that although WU states that it will share plant and overhead expenses between its existing Telegraph Company operations and its proposed cellular operations, it makes no mention of its intention to allocate costs between the two activities. WU replies that this allegation is totally unfounded. It attaches an affidavit of WU's Director of Capital and Economic Analysis, asserting that all capital and operating costs associated with WU's cellular system are fully allocated costs which reflect no cross-subsidization or other unwarranted allocations. We conclude that MACS' allegations are unsubstantiated and rebutted in WU's Reply; consequently, MACS has failed to raise a substantial and material question of fact warranting hearing designation.

Radiofone Application

11. MACS petitions to deny Radiofone's application alleging that Radiofone is not financially qualified, its proposed rates have not been justified, its need survey is unreliable, invalid and of no practical value, and grant of the application would foster undue concentration of ownership in the New Orleans market. WU challenges Radiofone's financial qualifications, it site availability for cell site 3, and its compliance with Sections 1.65 and 22.13(a)(5) of the Commission's rules.

12. *Financial Issue.* The aggregate of Radiofone's construction and first year operating costs is $7,014,000. To meet these expenses, Radiofone is relying on $1,500,000 current assets and a $7,000,000 bank loan from the Jefferson Bank and Trust Company of Metairie, Louisiana. WU argues that Radiofone has underestimated its interest expenses in the preconstruction period and during first year operation, and that Radiofone cannot be given credit for all of its current assets, specifically accounts receivable.[3] Both petitioners challenge the bank letter alleging that it is not a formal commitment and does not provide reasonable assurance, and WU argues that it violates the Louisiana state lending limit. Finally, MACS alleges the Radiofone's financial plan is inadequate because it did not submit cash flow projections or account for negative cash flow in the start-up years.

13. We conclude that Radiofone had adequately demonstrated its financial qualifications. First, the bank letter contains all the necessary terms and conditions of the loan, and under applicable precedent it provides reasonable assurance that $7,000,000 is available to Radiofone for its New Orleans cellular system. Moreover, Radiofone explains in its reply and affidavits that the Louisiana state lending limit has not been violated because another bank has agreed to contribute the portion of the loan which exceeds the limit.[4] Second, based on WU's interpretation of Radiofone's financial showing, if Radiofone's accounts receivable are discounted by 25%, thus reducing its net liquid assets to $1,355,215,[5] and if its interest expenses are increased by $644,450 Radiofone still has demonstrated the availability of $8,355,215 to meet its aggregate expenses of $7,658,450. Finally, contrary to MACS' allegations we do not require the submission of "cash flow projections" or a provision for "cost overruns," accordingly, we decline to designate a financial issue against Radiofone.

14. *Rates, need survey, ownership.* We reject MACS' arguments with respect to the reasonableness and justification of Radiofone's rates and the reliability of

[2] We note that WU has demonstrated the availability of $61,000 in excess of its $7,738,000 obligation.

[3] MACS also argues that since the balance sheet is combined for Radiofone and another entity, it is unclear what portion of the assets are attributable to Radiofone. Radiofone responds that the other entity is a wholly-owned subsidiary of Radiofone, Inc.

[4] WU files a motion to strike this information and information about Radiofone's accounts receivable. It agrues that these facts should not be considered because they enlarge the scope of Radiofone's financial showing and are *de facto* amendments to the application. We deny this motion. This information merely substantiates and clarifies the financial showing submitted in the application. Buffalo Order, *supra*, at para. 12.

[5] Radiofone submits in Appendix A to its reply, a letter from a certified public accountant which analyzes and ages its accounts receivable. Accordingly, we will credit Radiofone with 75% of these assets. Celcom Communications Corp. of Georgia (Atlanta Order), CC Mimeo 1988, released January 26, 1983, at para. 13.

its need survey. As stated with respect to WU's application, *supra* at para. 6, we have never required the preparation or submission of revenue requirement studies, the reasonableness of intrastate rates is within the jurisdiction of the states and rates are relevant to the cellular proceeding only as comparative criterion. *See Cincinnati Order, supra* at para. 15. The allegations concerning Radiofone's need surveys may also be raised during the comparative portion of this proceeding. We also reject MACS' allegations that Radiofone's cellular application should be denied because it would result in undue concentration of ownership in the New Orleans market. While it is true that Radiofone is the dominant radio common carrier in New Orleans,[6] the Commission has not indicated that a carrier's presence in conventional mobile services should affect its ability to prosecute a cellular application in its existing markets.

15. *Site availability and antenna information.* WU argues that Radiofone has not demonstrated the availability of cell site 3 because "not only does no antenna currently exist, but the alleged future lessor of the site, the Educational Broadcasting Foundation, Inc. (EBF), has not yet filed a construction permit application for the specific site." WU also states that the horizonatal pattern and analysis submitted by Radiofone for its side-mounted omni-directional antenna (Exhibit 1, Patterns 1–1 and 1–2) overstate the extent of coverage provided from cell site 3. Finally, WU argues that Radiofone has violated Section 22.15(c) by failing to identify the antennas for cell sites 2 and 3.

16. An applicant need not have a binding agreement or absolute assurance of the availability of a proposed site but must show that it has obtained reasonable assurance that its proposed site is available. *See Advanced Mobile Phone Service, Inc., (Pittsburgh Order),* CC Mimeo 1169, released December 6, 1982, at para. 8; and *Alabama Citizens for Responsive Public Television, Inc.,* 59 FCC 2d 1 (1976). Radiofone submitted with its application a letter from EBF advising that space would be available on a proposed tower to be built by EBF. In its Reply, Radiofone advises the Commission that EBF's modification application was accepted for filing on August 9, 1982, and it submits an affidavit of EBF's general manager confirming the availabilty of this site to Radiofone. Commission records indicate that EBF's application was granted on September 1, 1982. Therefore, we conclude that Radiofone has made an adequate showing of site availability. Second, as stated in para. 25, *infra*, the use of omni-directional antenna patterns when side-mounting is employed is technically incorrect. Therefore, Radiofone is required to file within fifteen days of publication of this order in the **Federal Register**, an amendment containing corrected antenna patterns and calcuations. This amendment should not cause any 39 dBu contours to cover an area not previously covered. Finally, we find that Radiofone's application is in accord with standard Commission practice with regard to its antenna site sketches. *See Cellular Communications of Cincinnati, Inc., supra* at para. 45.

17. *Sections 1.65 and 22.13(a)(5).* WU argues that Radiofone should have disclosed the fact that petitions to deny were filed against one of its rule waiver requests in connection with an application for an additional two-way facility, and that the waiver request was denied and application dismissed. It states that the nature of the allegations raised in the petition coupled with Radiofone's failure to disclose the information raise serious questions about Radiofone's fitness to be a cellular radio licensee. Radiofone replies that the denial of its waiver request and dismissal of its application were based on the Commission's procedural rules and was not a judgment on the merits of the petition. Therefore, it argues that the application was not "denied" as that term is used in Item 34 of the FCC Form 401; nor was the application in pending status when its cellular application was filed. Finally, Radiofone argues that the mere filing of a petition to deny has never been held by the Commission to trigger an affirmative response to Item 34. We decline to designate this issue for hearing. The application was dismissed and waiver request denied without reference to the petition to deny. Because the allegations raised in the petition were controverted by Radiofone and not considered on the merits by the Commission, they cannot be deemed to have any probation value or relevance to this proceeding. Other than the failure to report this dismissal, which our rules do not require, *Metrocom of St. Louis, (St. Louis Order),* CC Mimeo 2045, released January 28, 1983, at paras. 26–27, WU has not raised any allegations concerning Radiofone's qualifications to be a licensee.

CMS Application

18. MACS, Radiofone and WU challenge CMS' financial qualifications. In addition the following allegations were raised against CMS: (a) It has violated Commission rules by failing to disclose petitions to deny which raise character issues against DMS: (b) its rates are unrealistic and unreliable; (c) its need surveys are unreliable, invalid and impractical; (d) it has not subitted a maintanance proposal; (e) it has not demonstrated site availability; (f) it has not identified the location of one of its sites, and one site involves a substantial extension beyond the SMSA; (g) it side-mounts antennas while using omni-directional antenna patterns; and (h) its technical proposal contains various inconsistencies and flaws.

19. *Financial Issue.* Petitioners argue that CMS has understated its costs and overcommittee its funds so that it is not financially qualified to construct and operate its New Orleans cellular system. First, the CMS cost estimates do not appear unreasonable, and they include the full costs of constructing the eight cell sites [7] and the channel equipment necessary for the first year of operation. The Commission has long found that the general allegatoin that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue.[8]

20. Second, CMS' projected costs of construction and operation for one year are estimated at $4,475,000. To finance these costs, CMS is relying on a letter of commitment from its parent, Graphic Scanning Corp. (Graphis), to advance $5,000,000. This letter specifically states that none of the funds have been committed to other cellular system applications or to other projects. This satisfies the requirement of Section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committee elsewhere. In the *Chicago Order, supra,* note 8, the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 makets. The Commission further concluded that no financial issues should be designated for hearing against any Graphic subsidiary based on the

[6] The State of Louisiana has restricted entry policies. As a consequence, only Radiofone and South Central Bell provide common carrier mobile services in New Orleans.

[7] We also reject WU's allegations that CMS should have itemized costs for each cell site. Our rules do not require this degree of specificity. *See* Buffalo Order, *supra,* at para. 9.

[8] *See e.g.,* Advanced Mobile Phone Service, Inc. (Chicago Order), 81 FCC 2d 512 (1982), and Salem Broadcasting Co., Inc. 37 FCC 2d 115, 117 (Rev. Bd. 1972).

ability of Graphic to finance the construction and operation for one year for 30 cellular systems. Since petitioners have not raised any argument unique to the New Orleans application, those findings control the disposition of the financial arguments here.[9] Thus, we find CMS financially qualified.

21. *Character Issue and Section 1.65 and 22.13(a)(5).* Petitioners claim that CMS has failed to disclose that petitions to deny have been filed against applications of Graphic subsidiaries for authority to provide two-way services in the Domestic Public Land Mobile Radio Services. Therefore, they argue that items 34 and 37 of FCC Form 401 were not answered candidly, and Section 22.13(a)(5) and 1.65 were violated.[10] In this regard, they maintain that CMS' lack of candor in its cellular application as well as the allegations raised against Graphic in *ASD*,[11] warrant denial of CMS' application or, in the alternative, designation of a character issue.

22. We conclude that WU has failed to raise substantial and material questions of fact. In the *St. Louis Order, supra,* we stated that our rules do not require disclosure of applications which have petitions to deny pending against them. Moreover, the Commission has already held that the character of Graphic would be examined in the *ASD* proceeding and would not be included in cellular application proceedings. *See Chicago Order, supra,* at n. 19. Consistent with that decision, the Commission reserves the right to reexamine and reconsider the qualifications of CMS to hold a cellular licensee should *ASD* be resolved against any of CMS' affiliates, parent companies or any of their principals.

23. *Rates, need survey, maintenance proposal.* We reject MACS' challenge to CMS' projected rates, need survey and maintenance proposal. As stated in para. 6 and 14, *supra,* we do not require the preparation or submission of revenue requirement studies, the reasonableness of intrastate rates is within the jurisdiction of the states, and rates are relevant only as comparative issues. The allegations concernign CMS' need surveys may also be raised during the comparative portion of this proceeding. Finally, contrary to this allegation, CMS describes its maintenance proposal in Volume I, Exhibit IV, page 6, of the application. Whether this proposal is sufficient may be examined in the comparative portion of this proceeding to the extent it is relevant to the issue specified in para. 43 below.

24. *CGSA inconsistencies and extension.* Petitioners argue that the placement of site 2 on CMS' coverage map does not conform to the pertinent engineering data or to the exhibits illustrating the Cellular Geographic Service Area (CGSA). They allege further that this cell site involves more than a *de minimis* extension beyond the New Orleans SMSA, into a non-SMSA area. First, CMS explains that the placement of site 2 was an inadvertent clerical error which resulted in a coverate map that did not accurately depict either the location of site 2 or CMS' CGSA. CMS corrected this error by amendment dated July 29, 1982, which modified the 39 dBu contours and the CGSA for site 2. The Bureau accepted the amendment as minor, but did not allow CMS to modify the CGSA. The Commission has since determined that modificaiton of the proposed CGSA and associated contours to comply with the *de minimis* rule are minor amendments. *Memorandum Opinion and Order,* FCC 83-161, released April 22, 1983, at para. 9. Therefore, we will require CMS to submit a conformaing amendment to the ALJ within 15 days of the publication date of this Order, modifying the proposed CGSA for site 2 so that it complies with the *de minimis* rule. The amendment shall not result in coverage of any area not previously covered by the 39 dBu contour of any cell. The amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, a brief extension of time may be granted at the discretion of the ALJ if a number of other exhibits must be conformed.

25. *Engineering.* First, WU and MACS contend that CMS has violated Section 22.15(c) by failing to depict on its vertical profile sketches all of the antennas which are affixed to the structure CMS will use. However, we find that CMS has complied with standard Commission practice regarding its antenna site sketches. Second, MACS claims that CMS has violated Section 22.904, by using omni-directional antenna patterns even though side-mounting is to be employed. Therefore, MACS argues, three of CMS' sites will exceed the 100 watt ERP limit. CMS denies this allegation and asserts that its stated ERP is correct. We find that although the effect on CMS' engineering and overall system coverage is minimal, the omni-directional patterns submitted by CMS are in fact technically incorrect. *See St. Louis Order,* at para. 35. Therefore, CMS is required to file within fifteen days of the publication of this order in the **Federal Register,** an amendment containing corrected antenna patterns and any corresponding changes to effective radiated power calculations. This amendment should not cause any 39 dBu contours to cover an area not previously covered.

26. *Other Allegations.* We have also considered the other objections made against the CMS application, and we find that they raise no substantial issues. These allegations involve: (a) Site availability, which we find that CMS has adequately demonstrated;[12] (b) poor engineering design due to substantial contour overlap, which CMS adequately addresses in its Reply and which in any event, is not a basic qualification; (c) failure to designate the number of transmitters, which CMS sets forth in Volume I, Exhibit IV of the application; (d) failure to submit a separate Form 401 for each cell site, which our rules do not require; (e) inconsistencies in GGSA coverage, grade of service and office security techniques, which CMS adequately addresses in its reply. Also, these allegations raise comparative issues rather than basic ones and may be examined in the comparative portion of this proceeding.

MACS Application

27. CMS, Radiofone and WU filed petitions to deny MACS' application. Petitioners raise the following issues: (a) MACS is not financially qualified; (b) its CGSA coverage is deficient; (c) its 39 dBu contours fail to cover 75% of the CGSA; (d) it has not demonstrated site availability; (e) the application contains improper certification; and (f) MACS' need survey and maintenance, operation and service proposals are deficient.

[9] WU also filed a Motion to Strike financial information which was attached to CMS' Response to Petitions to Deny or Dismiss. WU argues that this information enlarges the scope of CMS' financial showing and is a *de facto* amendment to its application. We deny this Motion. This information will not be considered because the issue of CMS' financial qualification for its applications in the top thirty markets has already been resolved by the Commission, Chicago Order, *supra.*

[10] Item 34 of Form 401 requires the applicant and each party to the application to disclose information regarding the revocation of any license or denial by the Commission of any application for permit or license. Item 37 requires the applicant to disclose whether it, or any party directly or indirectly controlling it, is presently a party in any matter referred to in Item 34. Section 22.13(a)(5) of the Commission's rules requires applications to be maintained "substantially accurate and complete in all significant respects in accordance with the provisions of Section 1.65 [of the Commission's rules]." Section 1.65 requires that applicants maintain the accuracy and completeness of information furnished in a pending application.

[11] A.S.D. Answer Service, Inc., *et al.,* FCC 82-391, released August 24, 1982.

[12] It appears from CMS' reply that it has adequately remedied the minor deficiencies regarding its showing for sites 2, 4, 5 and 7.

28. *Financial Issue.* Petitioners argue that MACS has understated its costs, failed to adequately detail its projected costs and failed to include certain expenses. They argue further that MACS has not demonstrated the availability of sufficient resources to construct and operate its proposed cellular system.

29. First, we reject the allegations regarding MACS' estimated costs. Exhibit 5 of the application reflects MACS' pre-operational and operational costs. In its reply, MACS explains that its financial analysis uses broad categories of costs which contain all the necessary expenses to carry out MACS' business plan. It argues that our rules do not require a more detailed analysis of costs than it has provided. We are persuaded by MACS' reply that its cost estimates, although labelled "capital costs," include all necessary expenses to construct and operate its cellular system. With respect to the reasonableness of MACS' cost estimates, we have previously found that the general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing. Para. 19, *supra.* In addition, MACS' cost estimates do not appear unreasonable on their face and include the full costs of constructing all of its cell sites and the channel equipment necessary for the first year of operation. Therefore, we decline to designate an issue based on MACS' estimated costs.

30. In order to meet its expenses for three cellular systems, including New Orleans, MACS is relying on two sources: a capital commitment of approximately $20 million from Kansas City Southern Industries, Inc. (KCSI), the parent corporation of MACS' 90% stockholder; [13] and projections of subscriber revenues. Petitioners argue that MACS has not demonstrated that KCSI has sufficient liquid funds to meet its commitment and that its revenue projections are invalid.

31. In *Advanced Mobile Phone Service, Inc. (Kansas City Order),* CC Mimeo 5086, released July 8, 1983, the Bureau examined similar arguments and found them to raise substantial and material questions of fact about MACS' financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning MACS' overall financial package. We will not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to MACS' financial qualifications in the *Kansas City* proceeding to be dispositive of the issue, and we will reserve the right to reexamine and reconsider any authorization to MACS in the event that MACS' New Orleans application is granted as a result of the comparative hearing. [14]

32. *Geographic coverage, need survey.* WU argues that MACS' application should be disqualified from comparative consideration because it fails to propose to serve 75% of the CGSA, in violation of Section 22.903(a), and its proposed coverage of the New Orleans SMSA is inadequate. [15] WU also argues that MACS' need survey is unreliable and deficient.

33. First, the Bureau resolved the allegation with respect to MACS' 75% coverage of the CGSA in the *Kansas City Order, supra.* We accepted MACS' August 22, 1982, amendment which cured a clerical miscalculation by uniformly shrinking MACS' CGSA. [16] Accordingly, we find that MACS is now in compliance with Section 22.903(a). Second, the Commission did not establish a threshold requirement for minimum coverage of the SMAS. Section 22.903(a) specifies only that an applicant must provide coverage of 75% of the proposed cellular geographic service area (CGSA), and as stated above MACS has satisfied this requirement. Moreover, the Commission expressly stated in the *Report and Order* that both the geographic area that an applicant proposes to serve, and its indications of substantial public need for the services proposed, would be comparative and not basic criteria. 86 FCC 2d at 502.

34. *Defective Certification and Jurat.* Radifone argues that MACS' application is defective because it contains a defective affidavit and jurat. It stated that the President of MACS, Mr. Brown, signed the certification at page 6, Form 401, which applies to both the engineering and legal portions of the application, before the engineering information was completed. It claims that this is evident because the Brown certification was dated June 4, 1982, and the engineering certificate and exhibits were not signed until June 6, 1982. Radiofone also argues that, without explanation, a separate, typewritten version of the Form 401, page 6, certification signed by Mr. Brown and dated June 6, 1982, was submitted as part of the application. However, the jurat at the bottom of the page reveals that the document was subscribed before a notary public on June 5, 1982. Radiofone concludes that the subsequent Brown affidavit must have been altered in an attempt to set forth June 6, 1982, as the date of certification. Therefore, Radiofone argues that MACS' application should be returned as defective or in the alternative, a character issue should be designated against MACS.

35. MACS replies that these accusations are untrue. It explains that Mr. Brown, while in Washington on June 4, 1982, inadvertently failed to execute three original certifications on page 6, Form 401. To remedy this oversight, on June 5, in his office, he executed two original certifications prepared on separate sheets of paper. MACS' claims that these certifications were prepared, signed and notarized on June 5, and that due to a simple clerical error the certificates were dated June 6. In addition, MACS' attaches an affidavit from Mr. Brown denying that he falsely attested to reviewing the engineering information before he signed the application. Mr. Brown explains that he had on numerous occasions reviewed the engineering work and was fully apprised of its content when he executed the affidavits. On the basis of MACS' reply and affidavit, we find that Radiofone has failed to raise a substantial and material question of fact regarding the sufficiency of MACS' certification and its character qualifications.

36. *Staffing, maintenance, operation, service.* WU alleges that MACS has failed to submit acceptable proposals for these items. In reply, MACS states that it has responded to the pertinent questions and requirements and that the soundness of MACS' planning compared with other applicants' plans is irrelevant at this stage. We find that MACS has met our requirements for submission of staffing, maintenance, operation and service plans; the quality of such plans may be raised in the comparative portion of this proceeding. *Report and Order, supra,* at 502–503.

37. *Site availability.* Radiofone argues that MACS' application, as filed on June

[13] MACS' voting stock is held 90% by Veals, Inc. [wholly owned subsidiary of KCSI] and 10% by Millicom, Inc.

[14] The petitioners in this proceeding were permitted to file motions for limited intervention in the Kansas City proceeding, on the financial issue. *See* Kansas City Order, *supra,* at note 22.

[15] WU also filed a Motion to Dismiss MACS' application for failure to comply with Section 22.903(a) of the Commission's Rules. We deny this motion based on our resolution of this issue in the Kansas City Order, *supra,* at para. 55.

[16] The Bureau has returned this amendment as a major amendment. On September 13, 1982, MACS filed an Application for Review of the staff's action and responsive pleading were filed. The Commission had denied the Application for Review in part and granted it to the extent that it accepts the decrease in MACS' CGSA as a minor amendment. Memorandum Opinion and Order, FCC 83–286, released June 24, 1983. This order resolves the issues raised in all three markets, Kansas City, New Orleans and Dallas-Fort Worth.

7, 1982, was blatently defective for failure to set forth any showing of site availability. It argues further that MACS' July 21, 1982, amendment did not cure this defect because MACS merely executed an affidavit attesting to site availability without submitting any copies of the option and lease agreements.[17] Radiofone also argues that two of MACS' proposed sites, Covington and Slidell, are not available to MACS. It submits affidavits from the owners of these sites denying that MACS has contractual authority to use them.

38. First, we find that the MACS' affidavit attesting to site availability and offering to furnish the documentation upon request, provides reasonable assurance of site availability. As stated in the *Philadelphia Order, supra,* at para. 21, the cellular rules do not require that copies of lease agreements or deeds of ownership be furnished. *See also Sampson Broadcasting Co., Inc.,* 52 FCC 2d 954 (1975), and *Silver Beehive Telephone Company,* 35 FCC 2d 333, 336 (Rev. Bd. 1972). Further, with respect to the Covington site, we have accepted MACS' site change as a minor amendment because the change in coverage is minimal. With regard to the Slidell, Louisiana site, we are persuaded that MACS obtained reasonable assurance of site availability from an authorized agent of the owner. However, it is unclear whether the agent exceeded his authority and thus, whether the site is still available to MACS. Therefore, we will require MACS to either verify the availability of this site, or submit an amendment demonstrating the availability of an alternative site to the ALJ within 15 days of the publication of this order.

AMPS application

39. Radiofone and CMS filed petitions to defer Commission action on the AMPS application pending grant of a construction permit to a nonwireline applicant in New Orleans. For the reasons stated in the Commission's decision in the *Chicago Order, supra,* at para. 16, we find that it is premature to rule on these petitions at this time.[18]

[17] MACS admits that it erroneously failed to submit site availability information in its application. Its July 21, 1982, amendment is an affidavit of Philip S. Brown, MACS' president, which states, "MACS will have full access to and use of the designated cell sites on the basis of binding, freely executed option and lease arrangements which have been signed and are available to the Commission's staff or other parties upon request."

[18] Radiofone argues that AMPS' application should be deferred because of alleged anticompetitive conduct by South Central Bell Telephone Company. The Commission has rejected a similar argument against another AT&T company as a basis for any adverse action against AMPS. Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order), FCC 83-124, released April 6, 1983, at paras. 31-34. We reject WU's arguments for the same reasons.

WU filed a Petition to Dismiss or Deny AMPS' application alleging that AMPS has failed to supply an adequately detailed schedule of proposed charges in its response to Item 41 of FCC Form 401. Thus, WU argues, AMPS will have the advantage of reviewing the rate structure of its competitor before specifying its own rates. It also claims that AMPS' failure to project its schedule of proposed changes is anticompetitive and is in contravention of Commission rules. As stated in the *Buffalo Order, supra,* at para. 4, Exhibit 8 of AMPS' application, which provides an estimated range of proposed rates, is sufficient to enable us to conclude that AMPS' proposal will be in the public interest. Moreover, we found that WU's allegation concerning anticompetitive conduct is without merit.

40. WU argues further that AMPS has failed to indicate with specificity its plan to insure adequate interconnection of the nonwireline cellular systems with the landline telephone network. We rejected this allegation in the *Pittsburgh Order, supra,* at para. 13, and the Commission affirmed our action in the *Los Angeles Wireline Order, supra,* note 18, at paras. 39-40.

Conclusions

41. Based on our analysis of the applications and our resolution of the contested issues in this order. We find the applicants, except MACS, to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems except to the extent discussed here. As indicated above, the Radiofone and CMS applications do not comply with one or more of the cellular rules. In the *Chicago Order,* at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring Radiofone and CMS to bring their applications into conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address these amendments in their rebuttal cases. We emphasize that the amendments ordered here may not be used to give the applicants a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order,* in markets for which applications have not yet been filed, strict conformance with the Rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend non-conforming applications. We further find that the grant of the Advanced Mobile Phone Service application, as conditioned above, will serve the public interest, convenience and necessity.

42. Accordingly, it is ordered, That the application of Advanced Mobile Phone Service, Inc. is granted.[19]

43. It is further ordered, That pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Western Union Telegraph Company, Radiofone, Inc., Cellular Mobile Systems of Louisiana, Inc., and Mid-America Cellular Systems, Inc., are designated for hearing in a consolidated proceeding upon the following issues:[20]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; [21] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate

[19] This authorization will be conditioned upon AMPS obtaining appropriate antenna structure clearances. AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license to cover. Service to the public cannot commence until the covering license becomes effective. Equipment test, however, may be conducted. AMPS' authorization (FCC Form 463) will reflect these conditions.

[20] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of all of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501-02 (1981). Except for MACS, we have found all of the applicants included in the comparative hearing to be financially qualified. However, MACS' financial qualifications will be determined during the Kansas City comparative hearing. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Louisiana, Inc., or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 83-291, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. The Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Louisiana, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order,* at n. 19.

[21] For purposes of comparison, the geographic area that an applicant purposes to serve includes that area within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

the anticipated demand for both local and roamer service; [22]

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinating manner within its proposed CCSA in order to meet anticipated increasing demand for local and roamer service;

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's rates, charges, maintenance, personnel, practices, classifications, regulations and facilities including switching capabilities; [23] and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

44. It is further ordered, That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[24]

45. It is further ordered, That the applicants shall file written notices of appearances under Section 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

46. It is further ordered, That the hearing shall be held according to the procedures specified in Section 22.916 of the rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

47. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under Section 1.176 of the Commission's rules shall be taken directly to the Commission.

48. It is further ordered, That Radiofone and CMS are directed to file the conforming amendments specified in this order within 15 days after publication of this order in the **Federal Register** and that all applicants are directed to file rebuttal cases under Section 22.916(b)(4) of the rules within 45 rather than 30, days after publication of this order in the **Federal Register.**

49. It is further ordered, That except to the extent granted here, the Petitions to deny filed by the parties against the captioned applications are denied.

50. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

51. It is further ordered, That any authorization granted to MACS as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's financial qualifications as determined in *Advanced Mobile Phone Service, Inc. (Kansas City Order)*, CC Mimeo 5086, released July 8, 1983.

52. It is further ordered, That any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

53. This order is issued under Section 0.291 of the Commission's Rules and Order Delegating Authority, FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules of this order may be filed within 30 days of the date of public notice of this order (*See* Rule 1.4(b)(2)).

54. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-19304 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[22] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502-03.

[23] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[24] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an initial decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act § 554(d) (5 U.S.C. 554(d)); Section 1.221 of the Commission's rules.

[CC Docket No. 83-700, File No. 10286-CM-P-80; and CC Docket No. 83-701, File No. 50019-CM-P-81

Broadcast Data Corp. and Telecommunications Systems, Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memoandum Opinion and Order

Adopted: June 29, 1983.

Released: July 13, 1983.

By the Common Carrier Bureau:

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Danville, Virginia. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the

[1] On September 10, 1981, Richard L. Vega (Vega) and Christoper Laning (Laning) executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. (Buyer) to assign the construction permits of Northstar Communications (pursuant to Licenses granted and/or applications pending before the Federal Communications Commission) to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 50078-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra*.

[4] Consideration of these factors shall be in light of the Commission's descussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Broadcast Data Corp., Telecommunications Systems, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Anwering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under § 1.106 or application for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule § 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau

[FR Doc. 83-19289 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-706, File No. BPCT-820917KF; and MM Docket No. 83-707, File No. BPCT-821124KH]

Floyd Bell and Harry C. Powell, Jr., d.b.a. Powell Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: June 29, 1983.
Released: July 13, 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 Floyd Bell (Bell), Texarkana, Texas and Harry C. Powell d.b.a. Powell Broadcasting Company (Powell) Texarkana, Texas for authority to construct a new commercial television station on Channel 17, Texarkana, Texas.[1]

2. No determination has been made that the tower height and location proposed by each applicant would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[2]

3. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more AM and/or FM broadcast stations and the grant of such license would result in the Grade A contour of the proposed television station encompassing the entire community of license of the AM and/or FM broadcast station. However, Note 8 to this rule provides, *inter alia*,, that applications of UHF television facilities ". . . will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Since the applicant, Floyd Bell, is the 51% stockholder of Stations KADO(AM), Texarkana, Texas and KADO-FM, Texarkana, Arkansas, an appropriate issue will be specified to determine whether common ownership, operation or control of the stations in question would be in the public interest.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be desingated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

2. To determine with respect to Floyd Bell, whether common ownerhship, operation and control fo station KADO(AM), Texarkana, Texas and KADO-FM, Texarkana, Arkansas, and the proposed television station would be consistent with the public interest.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered That, the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

7. It is further ordered, That the informal objection filed by the Association of Maximum Service Telecasters, Inc. is dismissed as moot.

8. 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 to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-19290 Filed 7-15-83 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-676, File No. BPCT-830303KG, et. al.]

George E. Gunter, et. al.; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: June 24, 1983.
Release: July 12, 1983.

In re applications of George E. Gunter, Bloomington, Indiana, MM Docket No. 83-676, File No. BPCT-830303KG;

---

[1] On November 24, 1982, the Association of Maximum Service Telecasters, Inc. filed an informal objection to the application of Floyd Bell on the ground that its proposed transmitter site was short-spaced by 7 miles to Station KLTS-TV, Channel 24, Shreveport, Louisiana. Bell filed an amendment on May 16, 1983, changing its antenna site to a location which meets the Commission's minimum mileage separation requirements. Therefore, the informal objection will be dismissed as moot.

[2] In the case of Powell, the Commission is not in receipt of the Federal Aviation Administration's study.

Hoosier Tele-Media Partnership, Bloomington, Indiana, MM Docket No. 83-677, File No. BPCT-830311KH; Channel 63, Inc., Bloomington, Indiana, MM Docket No. 83-678, File No. BPCT-830311KK; Robert W. Harrison and Ronald E. Hayes, d.b.a. Bloomington 63, Ltd., Bloomington, Indiana, MM Docket No. 83-679, File No. BPCT-830311KP; for construction permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of George E. Gunter, Hoosier Tele-Media Partnership, Channel 63, Inc., and Robert W. Harrison and Ronald E. Hayes, d.b.a. Bloomington 63, Ltd. for a new commercial television station to operate on Channel 63, Bloomington, Indiana.

2. Bloomington 63, Ltd. failed to answer Section II, Page 4, Question 6 concerning any interests in an AM, FM or TV broadcast station. However, in light of our review of Exhibit 1 submitted in response to Question 7(e), we have assumed that the answer is "no." If this assumption is incorrect, Bloomington 63, Ltd. shall submit an appropriate amendment to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

3. Section IV, Page 6, Question 2, FCC Form 301, requires an applicant to state the minimum amount of time, between 6:00 a.m. and midnight, it proposes to devote normally each week to news, public affairs, all other programs, and local programming. George E. Gunter did not indicate the minimum amount of time he proposes to devote normally each week to local programming. George E. Gunter will be required to submit this information to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

4. Channel 63, Inc. and Bloomington 63, Ltd. propose to operate from sites located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). In the event of a grant of either of these applications, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune*, 8 R.R. 2d 416 (1966).

5. Bloomington 63, Ltd. specifies overall tower height above ground of 2308 feet, but Exhibit E-6 shows 1170 feet. Consequently, the applicant will be required to submit the correct figure for the overall height above ground within 20 days of the release of this Order.

6. No determination has been made that the tower heights and locations specified by George E. Gunter, Hoosier Tele-Media Partnership, and Channel 63, Inc., would not each constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[1]

7. The effective radiated visual power, antenna height 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 that the respective applicants propose to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television services 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 any of the applicants.

8. 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 would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to George E. Gunter, Hoosier Tele-Media Partnership, and Channel 63, Inc., whether there is reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That George E. Gunter shall submit the minimum amount of time, between 6:00 a.m. and midnight, he proposes to devote normally each week to local programming (Section IV, Question 2, FCC Form 301), to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

11. It is further ordered, That in the event of a grant of the Channel 63, Inc. or the Bloomington 63, Ltd. application, the construction permit shall contain the following condition: operation with effective radiated visual power in excess of 1000 kw is subject to the consent of Canada.

12. It is further ordered, That within 20 days of the release of this order, Bloomington 63 Ltd. shall submit the correct figure for its overall height above ground to the presiding Administrative Law Judge.

13. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

14. 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 to present evidence on the issues specified in this Order.

15. It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart, Chief,

Video Services Division, Mass Media Bureau.

[FR Doc. 83-19292 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[1] The Commission is not in receipt of FAA's determination for George E. Gunter and Hoosier Tele-Media Partnership.

[CC Docket No. 83-704, File No. 5712-CM-P-80; CC Docket No. 83-705, File No. 10290-CM-P-80]

Hi Band Broadcasting Co. and Broadcast Data Corp.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted June 29, 1983.
Released July 13, 1983.

By the Common Carrier Bureau:

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Hattiesburg, Mississippi. The applicatons are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal request by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, We find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to bes' serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b)

(4) It is further ordered, That Hi Band Broadcasting Company, Broadcast Data Corp. and the Chief, Common Carrier Bureau, are made Parties to this proceeding.

(5) It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules, 47 CFR 1.221.

(6) It is further ordered, That any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corportation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Answering Service, Inc., et al,* FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

(7) This Order is effective on its release date. Petitions for reconsideration under § 1.106 or application for review under 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rules § 1.4(b)(2).

(8). The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc.83 19293 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[1] On September 10, 1981, Richard L. Vega (Vega) and Christopher Laning (Laning) executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. (Buyer) to assign the construction permits of Northstar Communications (pursuant to Licenses granted and/or applications pending before the Federal Communications Commission) to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Televisiõn Corporation, File No. 50078-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to § 221.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 6, *infra.*

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

[MM Docket No. 83-605, File No. BPCT-811110KH]

Laurel Television, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: May 31, 1983.
Released: June 28, 1983.

In re applications of Laurel Television, Inc., Johnstown, Pennsylvania, MM Docket No. 83-605, File No. BPCT-811110KH; Group for the Advancement of Television Service, Inc., Johnstown, Pennsylvania, MM Docket No. 83-606, File No. BPCT-820106KI; Alfonso E. Arreola, B. Hawkins, et al. d/b/a Johnstown Family Television, Ltd., Johnstown, Pennsylvania, MM Docket No. 83-607, File No. BPCT-820830KH; Johnstown Television Co., Inc. Johnstown, Pennsylvania, MM Docket No. 83-608, File No. BPCT-820416KG; for construction permit.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 8, Johnstown, Pennsylvania.[1]

2. Each of the applicants indicates that it will provide equivalent protection to Station WGAL-TV, Lancaster, Pennsylvania and Station WJKW-TV, Cleveland, Ohio. Accordingly, a grant of any one of these applications will be appropriately conditioned.

Laurel Television, Inc. (Laurel) [2]

3. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirect 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. Fred Glosser, a principal of Glosser Bros., Inc., (100 percent owner of Laurel), is the President and 100 percent stockholder of Station WGLU(FM).

[1] Laurel Television, Inc., filed amendments on January 12, and 14, 1983, with respect to the ownership interests of one of its principals. The amendment is accepted for 1.65 purposes only.

[2] WGAL-TV, Inc. filed a petition to deny and/or to specify issues or impose conditions with respect to the applications, requesting specification of issues regarding "equivalent protection," or alternatively the imposition of conditions on the grant of any application for Channel 8. It is noted that this Order imposes conditions with respect to "equivalent protection" on each application in the event of grant. The technical parameters imposes define permissible radiation toward WGAL-TV.

Johnston, Pennsylvania. A waiver of § 73.636 has been requested. Accordingly, an issue will be specified to determine whether circumstances exist warranting a waiver of § 73.636 to allow common ownership of WGLU(FM) and the proposed television station.

Group for the Advancement of Television Service, Inc. (GATS)

4. The technical data submitted filed by GATS in FCC Form 301, Section IV, does not agree with the information which it filed with the Federal Aviation Administration. Consequently, no determination has been made that the tower height and location proposed would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Additionally, GATS has not demonstrated its financial qualifications. GATS' application includes a letter offering it a $5,000,000 loan; however, we have no evidence that the lender can meet its commitment. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, GATS will be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualification. If the applicant cannot make the required certifications, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

Johnstown Family Television, Ltd. (Johnstown Family) [1]

6. Johnstown Family has indicate that it filed notice of its proposed facility with Federal Avaiation Administration; however, the Commission is not in receipt of a copy of such study. Consequently, no determination has been made that the tower height and location proposed would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

7. Section 73.14(b)(1) of the Commission's Rules limits the maximum effective radiated power (ERP) of any VHF station in Zone 1 with an antenna height above average terrain (HAAT) in excess of 1000 feet. Johnstown Family specifies an HAAT in excess of 1000 feet, but exceeds the maximum allowable ERP. Accordingly, the applicant will be required to amend its application to specify an ERP that is in conformance with § 73.614(b)(1) of the Rules and to submit its amendment to the presiding Administrative Law Judge within 20 days after this Order is released.

8. Section 73.685(e) of the Commission's Rules states that stations operating on Channels 2–13 will not be permitted to employ a directional antenna having a ratio of maximum to minimum radiation in the horizontal plane in excess of 10 dB. Johnstown Family proposes a directional antenna with a maximum to minimum ratio in excess of 10 dB. Furthermore, a waiver of § 73.685 has not be requested. Accordingly, an issue will be specified to determine if circumstances exist to warrant waiver of the § 73.685 of the rule; and if so, whether such waiver 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, with respect to Group for the Advancement of Television Service, Inc. and Johnstown Family Television, Ltd., whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Laurel Television, Inc., whether circumstances exist warranting a waiver of § 73.636 of the Rules to allow common ownership, operation or control of Station WGLU(FM), Johnstown, Pennsylvania and the proposed television station.

3. To determine, with respect to Johnstown Family Television, Ltd. whether circumstances exist to warrant a waiver of § 73.685 of the Commission's Rules; and if so, whether such waiver would be consistent with the public interest.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That in the event of a grant of Laurel Television, Inc.'s application, the construction permit will be conditioned as follows:

The maximum visual effective radiated power at azimuth 100 degrees true toward WGAL-TV, Lancaster, Pa., shall not exceed 11.19 dBk (13.2 kW).

The maximum visual effective radiated power at azimuth 297 degrees true toward station WJKW-TV, Cleveland, Ohio shall not exceed 21.07 dBk (129 kW).

12. It is further ordered, That, in the event of a grant of Group for the Advancement of Television Service, Inc.'s application, the construction permit shall be conditioned as follows:

The maximum visual effective radiated power at azimuth 100 degrees true toward WGAL-TV, Lancaster, Pa., shall not exceed 10.61 dBk (11.5 kW).

The maximum visual effective radiated power at azimuth 297 degrees true towards station WJKW-TV, Cleveland, Ohio shall not exceed 20.7 dBk (117 kW).

13. It is further ordered, That, in the event of a grant of Johnstown Family Televison's application, the construction permit will be conditioned as follows:

The maximum visual effective radiated power at azimuth 100 degrees true toward WGAL-TV, Lancaster, Pa., shall not exceed 11.0 dBk (12.6 kW).

The maximum visual effective radiated power at azimuth 297 degrees true towards station WJKW-TV, Cleveland, Ohio shall not exceed 20.95 dBk (124 kW).

14. It is further ordered, That, in the event of a grant of Johnstown Televison's Co., Inc.'s application the construction permit shall be conditioned as follows:

The maximum visual effective radiated power at azimuth 99 degrees true toward WGAL-TV, Lancaster, Pa., shall not exceed 11.9 dBk (15.5 kW).

The maximum visual effective radiated power at azimuth 297 degrees true towards station WJKW-TV, Cleveland, Ohio shall not exceed 22.1 dBk (162 kW).

15. It is further ordered, That in the event of a grant of any one of the applications in this proceeding, the construction permit of the successful applicant will be conditioned as follows:

[1] On May 13, 1983, Johnstown Famiy amended it application to provide a page inadvertently omitted from the original filing and to update the broadcast interest of its principals. In as much as this information is required by § 73.3514 and 1.65 of the Commission's Rules, the amendment is accepted.

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards stations WJKW and WGAL.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation of the transmitting antenna to achieve the radiation limitations prescribed above for stations WJKW and WGAL.

16. It is further ordered, That Group for the Advancement of Television Service, Inc. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days after this order is released.

17. It is further ordered, That, Johnstown Family Television, Ltd., shall submit an amendment to specify an effective radiated visual power that complies with § 73.614(b)(1) of the Commission's Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

18. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

19. 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 issue specified in this Order.

20. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Service Division, Mass Media Bureau.

[FR Doc. 83-19291 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

Federal Communications Commission

[File No. 26019-CL-P-(5)-82]

Advanced Mobile Phone Service, Inc.; Hearings; Correction

In the matter of application of Advanced Mobile Phone Service, Inc. for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Miami/Fort Lauderdale, Florida, Modified Standard Metropolitan Statistical Area (File No. 26019-CL-P-(5)-82).

In the matter of applications of CC Docket No. 83-661: American Mobile Communications of Florida (File No. 26100-CL-P-(6)-82), Cell-Tel Network (File No. 26059-CL-P-(11)-82), Cellular Telephones of Florida Corporation (File No. 26151-CL-P-(6)-82), Charisma Communications Corp. of America (File No. 26138-CL-P-(8)-82), Cellular Mobile Systems of Florida, Inc. (File No. 26170-CL-P-(19)-82), Florida Cellular Telephone Company (File No. 26141-CL-P-(16)-82), Maxicom, Inc. (File No. 26077-CL-P-(5)-82), MCI Cellular Telephone Company (File No. 26094-CL-P-(9)-82), Metro Mobile CTS (File No. 26140-CL-P-(12)-82), MRTS-Poe of Miami (File No. 26081-CL-P-(6)-82), and Unity Telecommunications Systems, Inc. (File No. 26123-CL-P-(9)-82) for a construction permit to establish a cellular system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Miami/Fort Lauderdale, Florida modified Standard Metropolitan Statistical Area.

ERRATA

Released: July 8, 1983.

1. On July 1, 1983 the Common Carrier Bureau released an order in the captioned proceeding. (See 48 FR 31716, July 11, 1983.) Immediately following the caption and heading is the notation, "By the Commission." This notation should read, "By the Common Carrier Bureau." The beginning of para. 1 should be corrected to read, "Presently before the Chief, Common Carrier Bureau, under delegated authority, are the . . ."

2. Footnote 52, part (3) refers to "the required § 1.311 statements," but the reference should be to § 1.1311.

3. Paragraph 81 lists the applicants designated for hearing; this list should include Florida Cellular Telephone Company.

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-19295 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Affiliated Broadcast Systems, et al.

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. J. Brent Hessing, James B. Hessing, and Katherine G. Anderson d.b.a. Affiliated Broadcast Systems.	Boise, Idaho	BPH-810629AF	83-642
B. William F. Clayton	Garden City, Idaho	BPH-811028AF	83-643
C. Contemporary Media Corporation	Boise, Idaho	BPH-811028AK	83-644
D. K-106, Inc.	Eagle, Idaho	BPH-811028Ao	83-645

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 HOD. 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)
1. (See Appendix)	C
2. 307(b)	A, B, C, D
3. Contingent comparative	A, B, C, D
4. Ultimate	A, B, C, D

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, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue

1. To determine with respect to the following applicant(s) whether, in light

of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: C. (Contemporary);

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
C (Contemporary)	Proposes to finance with same funds used in connection with application (BPH-820415BF) for new FM, Wichita, Kansas. Applicant notes that "as soon as one application is granted, the remaining pending application will be dismissed." Total net current and liquid assets available not sufficient to meet costs of both proposals. In the past, when applicants have failed to earmark certain assets from a common source for one of the proposals and other assets for the other proposal, the Commission's Review Board has specified financial issues against both applications. *Nelson Broadcasting Co.*, FCC 64R-505, 4 RR 2d 87, 90 (Rev. Bd., 1964); *Alvin L. Korngold*, 31 FCC 2d 39, 42 (Rev. Bd., 1971).

[FR Doc. 83-19299 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-702 and 83-703; File Nos. 10302-CM-P-80 and 50014-CM-P-81]

Broadcast Data Corp. and Telecommunications Systems, Inc.; Hearing Designation Order

Memorandum Opinion and Order

In the matter of applications of Broadcast Data Corp. (CC Docket No. 83-702, File No. 10302-CM-P-80) and Telecommunications Systems, Inc. (CC Docket No. 83-703, File No. 50014-CM-P-81), for construction permits in the multipoint distribution service for a new station at Morganton, North Carolina.

Adopted: June 29, 1983.

Released: July 12, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order

1. For consideration are the above-referenced applications.[2] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Morganton, North Carolina. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[3]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[3]

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications shold be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Broadcast Data Corp., Telecommunications Systems, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearnace in accordance with the provisions of section § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Broadcast Data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in hearing designated in *A.S.D. Answering Service, Inc., et al*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date, petitions for reconsideration under Section 1.106 or application for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* § 1.4(b)(2)

8. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-19297 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Eagle Broadcasting Co., Inc. and KB Radio

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. Eagle Broadcasting Company, Inc.	Ralls, Texas	BPH-811218AN	83-696
B. Bryan King and James Bumpous, a partnership d.b.a. KB Radio	Lorenzo, Texas	BPH-820317AA	83-697

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

[1] On September 10, 1981, Richard L. Vega (Vega) and Christopher Laning (Laning) Executed an Assets Sale and Purchase Agreement with Broadcast Data Corp. (Buyer) to assign the radio authorizations and applications of Northstar Communications to Broadcast Data Corp. Broadcast Data Corp. is a wholly-owned subsidiary of Graphic Scanning Corporation. See International Television Corporation, File No. 50078-CM-AP/AL-(5)-82 (released June 25, 1982).

[2] On March 28, 1983, Northstar Communications was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive applications.

[3] This finding is subject to paragraph 8, *infra*.

[4] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

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)
1. (See Appendix)	A
2. Air hazard	A, B
3. 307(b)	A, B
4. Contingent comparative	A, B
5. Ultimate	A, B

3. If there is any non-standardized issue(s) in this procedding, 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 Representatives, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Eagle):

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (Eagle)	$100,250 will be required to construct and operate the proposed station for 3 months. Eagle is relying on a $90,250 loan from one of its principals, which amount is not sufficient to meet its financial requirements.

[FR Doc. 83-19301 Filed 7-15-83; 8:45am]

BILLING CODE 6712-01-M

[CC Docket No. 83-716; File No. 26045-CL-P-(18)-82, et al.]

GTE Mobilnet of San Francisco, Inc., et al.; Hearing Designation Order

In the matter of applications of GTE Mobilnet of San Francisco, Inc. (File No. 26045-CL-P-(18)-82) and Advance Mobile Phone Service, Inc. (File No. 26013-CL-P-(5)-82), for a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the San Francisco, California, Standard Metropolitan Statistical Area.

In the matter of applications of CC Docket No. 83-716; Cellular Network, Inc. (File No. 26085-CL-P-(19)-82), McCaw Communications of San Francisco, Inc. (File No. 26116-CL-P-(15)-82), Intrastate Radio Telephone, Inc. of San Francisco (File No. 26160-CL-P-(13)-82), Cellular Mobile Systems of California, Inc. (File No. 26193-CL-P-(20)-82), for a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Francisco, California, Standard Metropolitan Statistical Area.

Adopted: June 30, 1983.

Released: July 8, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order Granting Application and Designating Applications for Hearing

1. Presently before the Chief, Common Carrier Bureau, under delegated authority, are: (a) The captioned applications of GTE Mobilnet of San Francisco, Inc. (GTE), Advanced Mobile Phone Service, Inc. (AMPS), Cellular Network, Inc. (Cellnet), C McCaw Communications of San Francisco, Inc. (McCaw), Intrastate Radio Telephone, Inc. of San Francisco (Intrastate), and Cellular Mobile Systems of California, Inc. (CMS), to construct cellular radio systems to serve the San Francisco, California, Standard Metorpolitan Statistical Area (SMSA) and (b) various motions, petitions, and pleadings related to the applications. GTE and AMPS have filed a settlement agreement together with a motion for approval of the agreement.

2. As discussed below, after carefully reviewing the applications and related pleadings, we find that the public interest will be served by our approving the GTE/AMPS settlement agreement and granting the GTE application. Concerning the four nonwireline applicants, we find all applicants except Cellnet and McCaw to be fully qualified to construct and operate a cellular system in San Francisco. Because the proposals of Cellnet, McCaw, CMS and Intrastate to use the same frequencies in the same geographical area are mutually exclusive, we are designating them for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), and *further modified*, 90 FCC 2d 571 (1982). We are also designating a site availability issue against Cellnet.

Cellnet Application

3. CMS filed a petition to deny Cellnet's application, alleging that Cellnet is not financially qualified because it has not detailed all relevant costs with specificity or demonstrated the availability of sufficient funds. CMS also argues that Cellnet has failed to adequately indicate the basis which will be used to determine whether sufficient congestion exists to warrant cell-splitting in accordance with § 22.913(a)(5) of the rules, 47 CFR 22.913(a)(5). In addition, McCaw filed an informal objection against Cellnet's application, challenging Cellnet's showing of site availability. McCaw claims that Cellnet misrepresented the availability of several of its proposed sites.

4. *Financial qualifications.* Petitioner CMS alleges that Cellnet's estimated costs for construction and first year of operation are inaccurate and that the applicant has furnished different and conflicting figures for these costs in various parts of the application and direct case. In its reply, Cellnet responds that the petitioner's arguments are based on a misunderstanding of the figures presented in the application. The Cellnet reply includes a detailed analysis of its estimated construction costs and operational expenses for the first year. After reviewing the application and the explanatory materials in Cellnet's reply, we conclude that the applicant's cost estimates comply with the cellular rules.[1]

5. CMS further questions Cellnet has adequate funds available to cover its estimated construction ($15,058,000) and first year operating ($4,353,000) costs. To meet its expenses, Cellnet relies on a bank loan from the Continental Illinois National Bank, equity funding from a venture capital firm to Cellnet's parent corporation, and liquid assets from its parent corporation.

6. In the *San Jose* order,[2] the Bureau examined similar arguments and found them to raise a substantial and material question of fact about Cellnet's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning Cellnet's overall financial package. We will not designate an identical issue here because we want to avoid duplicative litigation. However,

[1] The petitioner's misunderstanding of certain parts of the application is grounded primarily in confusion over the unusual format of the Cellnet application, which bases cost estimates on the third year of operation rather than the first. Additionally, the application includes second and third columns of figures which adjust cost estimates for inflation. While there may be sound business reasons (as explained in the reply) for this approach, we note the difficulty in determining from the application's format whether the financial showing complies with the rules. The applicant's reply has significantly clarified the information contained in the application.

[2] GTE Mobilnet of San Jose, CC Mimeo 39745, released May 6, 1983. Cellnet's financial arrangements are fully discussed and detailed in the *San Jose Order*, paras. 19-23. We will not repeat that discussion here.

we will consider the ultimate finding as to Cellnet's financial qualifications in the *San Jose* proceeding to be dispositive of the issue here, and we reserve the right to reexamine and reconsider any authorization to Cellnet in the event that Cellnet's application is granted as a result of the comparative hearing.[3]

7. *Cell-splitting plan.* CMS alleges that Cellnet has failed to adequately describe its basis for determining congestion in accordance with Section 22.913(a)(5) of the Commission's rules. Cellnet's application states (Exhibit 23) that the applicant will determine when cell-splitting is warranted based on market study forecasts, monitoring of system user statistics compiled through actual operating experience, and Grade of Service design limits. Cellnet states that it will split cells (or add channels) when the measured performance of the cell with the heaviest traffic loading consistently approaches a grade of service of P.05. The application explains this service objective in detail. We conclude that Cellnet has complied with the requirements of § 22.913(a)(5), and we will not designate a qualifying issue on this basis. *See Advanced Mobile Phone Service, Inc.* (Philadelphia Order), CC Mimeo 1882, released January 21, 1983, at para. 31. Cell-splitting plans and proposed system expansion may be examined in the comparative portion of this proceeding to the extent they are relevant to the issues specified in para. 28 below. *Report and Order, supra.*, at 503–03; San Jose Order, *supra.*, at para. 25.

8. *Site Availability.* On April 18, 1983, McCaw filed an informal objection against Cellnet's application which alleges that Cellnet has failed to demonstrate reasonable assurance of site availability.[4] McCaw argues that Cellnet's application contains general inconsistencies with respect to site availability. In general, McCaw claims that Cellnet's application, Exhibit 13, contains for all twenty sites a boilerplate clause stating that Cellnet has secured letters of intent to negotiate for transmitter sites within a 2.5 mile radius from the center of each cell it proposes to operate. In addition, McCaw points out that Cellnet's Exhibit 13 also contains letters and attached check sheets which describe the exact address and the nature of the site available to Cellnet. McCaw claims that the boilerplate clauses and the signed letters are inconsistent and that such internal conflict in Cellnet's application must be resolved before Cellnet is found to have demonstrated site availability. Furthermore, McCaw specifically objects to Cellnet's showing of availability for seven of its proposed sites. McCaw alleges that Cellnet has misrepresented facts with respect to these sites. Finally, McCaw claims that persons signing the site checksheets may not have been aware of the particulars proposed for each site.

9. In reply, Cellnet states that the language in Exhibit 13 does not disclaim the accuracy of the sites specified in its site checksheets. Cellnet states that the "intent to negotiate" clause merely evidences Cellnet's efforts to acquire the sites which it later secured and which are represented in the letters and site checksheets accomanpying its application. Cellnet claims it acted in good faith and used proper methods for its site selection. In support of its petition, Cellnet provides affidavits from its site selection contractor and the members of his staff which allege that no improper methods or deceptions were used to procure the sites and that the signatories were fully aware of the contents of the site letters. Finally, Cellnet confirms that three of the sites questioned by McCaw are still available. As to the other four sites questioned by McCaw, Cellnet states that these are no longer available, but it claims that alternative sites have been obtained and will be reflected in an amendment to be filed with the Commission. McCaw filed a reply to Cellnet's opposition alleging further inconsistencies in Cellnet's site selection process.

10. After reviewing Cellnet's application and the pleading submitted, we find that Cellnet's application provided reasonable assurance of the availability of its originally proposed sites. We find no evidence of intent on the part of Cellnet to deceive the Commission with respect to the availability of its proposed sites. Petitioner's arguments in this regard are speculative and based on mere hearsay. In addition, we find that there is no inconsistency between the applicant's statements in Exhibit 13 and the site availability letters filed with its application. Accordingly, we decline to designate a site availability issue based on McCaw's Informal Objection, and the Informal Objection is therefore dismissed. However, because four of Cellnet's sites are not longer available, we will designate a site availability issue for these sites against Cellnet. The Administrative Law Judge (ALJ) may use our summary procedures to resolve this issue if Cellnet submits amendments showing reasonable assurance of the availability of alternate sites. Because we are adding this qualifying issue, we will suspend the procedural deadline in § 22.916(b)(4) and allow the ALJ to require such additional evidence as may be necessary to resolve the issue. *See* para. 35, *infra.*

McCaw Application [5]

11. *Financial Qualifications.* CMS attacks each of McCaw's sources of funding, arguing that each financial arrangement is defective. CMS argues that McCaw has failed to demonstrate that it is financially qualified under § 22.917 of the rules. 47 CFR 22.917. McCaw estimates that its construction costs and first year operating expenses for San Francisco will total $18,838,000. Petitioner alleges that McCaw does not have sufficient funds available to cover these costs.

12. *In the San Jose Order, supra.*, at paras. 3–11, the Bureau examined similiar arguments and found them to raise a substantial and material question of fact about McCaw's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning McCaw's overall financial package. We will not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to McCaw's financial qualifications in the *San Jose* proceeding to be dispositive of the issue here, and we reserve the right to reexamine and reconsider any authorization to McCaw in the event that McCaw's application is granted as a result of the comparative hearing.[6]

13. CMS alleges that McCaw has understated its costs and excluded estimated organizational costs of $250,000 from its total expenditure figures. In its reply, McCaw states that organizational costs were excluded from its total of estimated expenditures because funds are readily available from its balance sheet to cover these

[3] The petitioners in this proceeding were invited to file a motion for limited intervention in the San Jose proceeding, on the financial issue. *See San Jose Order*, at n. 9.

[4] Because of the obvious impact on the orderly, expeditious processing of cellular applications, we are reluctant to consider allegations raised so long after the close of the pleading period. We do so in this instance because the substance of McCaw's allegations can not be ignored simply because the pleading was untimely. As a general practice, however, we will not consider objections which are untimely filed.

[5] McCaw and Intrastate have notified the Commission that they intend to form a General Partnership for the purpose of prosecuting a single cellar application for the San Francisco SMSA. See n. 7, *infra.*

[6] As in the case of Cellnet, the petitioners in this proceeding were allowed to file a motion for limited intervention in the *San Jose* proceeding on the financial issue. *See San Jose Order*, at n. 5.

costs. McCaw states that it has $198,000 in existing funds, which were not included as a source of funding, to cover all but $41,000 of its estimated organizational costs. The balance of $41,000 would be covered by various surpluses totaling over $1,000,000 that McCaw's three affiliates will have available. After receiving McCaw's balance sheet, we are unable to conclude that McCaw has $198,000 in existing, liquid funds to cover part of its estimated organizational costs. McCaw lists these funds under assets as deferred costs but provides no explanation as to their nature. In addition, the availability of the additional $41,000 needed for organizational costs has not been demonstrated by McCaw but rather is contingent upon the proof to be offered in the *San Jose* proceeding. Because we have designated a financial issue against McCaw to examine the availability of its financing, we will not here examine separately the availability of funds to cover its organizational costs. The *San Jose* proceeding is not far advanced; we request the ALJ assigned to take official notice of this aspect of McCaw's financial showing and to include it in his findings.

14. *Site Availability.* CMS alleges that McCaw has failed to provide reasonable assurance that its El Granada site (cell site #11) will be available. CMS also argues that use of the El Granada site is a major action under § 1.1305 of the Commission's rules and that McCaw therefore has an obligation to submit an environmental impact statement. In addition, CMS charges that McCaw has made no attempt to initiate procedures necessary for obtaining governmental approvals prior to construction of the site. In its reply, McCaw states that although the El Granada site is located in a scenic area, its use of the antenna site is not a major environmental action, and it has reasonable assurance of the availability of the proposed site. In addition, McCaw states that it did submit the environmental information required by § 1.311 with its application. We find that the letter from the lessor of the site (Exhibit 7E) provides reasonable assurance of the availability of the El Granada site. McCaw states that it will pursue all government approvals which may be necessary at such time as its application is granted. CMS has not provided any evidence that the necessary government approvals will not be forthcoming. Because McCaw has otherwise shown reasonable assurance and met our environmental requirements, we decline to designate an issue against McCaw here.

Intrastate Application [1]

15. *Technical issues.* CMS argues that Intrastate's application is defective for failure to provide for control point monitoring during normal rendition of service, as required by § 22.909(a)(2) of the rules. In its reply, Intrastate explains that it will have operators on duty at the control point during regular workdays and will monitor the system from its message and alarm center during off-peak hours. In the event of a malfunction, Intrastate states that monitoring personnel will be able to telephone or page maintenance personnel. We find that the arrangement complies with the requirements of § 22.909(a)(2) of our rules. Therefore, we decline to designate an issue in this regard.

16. CMS challenges Intrastate's system design alleging that the applicant has not demonstrated that its microwave frequencies will be available for interconnection of its cellular system. We find this allegation to be without merit. Common Carrier Public Notice, Mimeo 567, November 1, 1982, at page 3, stated that applicants need not include in their applications microwave applications and/or authorizations to connect the cell sites with the system control station to meet the required basic qualifications, and that no comparative preference would be accorded to an applicant submitting such interconnection information. The Public Notice reflects the absence of any requirements in the cellular rules, specifically, or in Part 22 of the rules, generally, that applicants specify the method of connecting transmitter sites with switches and control points. In view of the above, we conclude that Intrastate is technically qualified to construct and operate a cellular system in San Francisco.

17. *Financial qualifications.* Petitioner CMS questions the cost estimates submitted by Intrastate. These estimates use an incremental cost analysis, showing the increase in costs above Intrastate's present RCC business costs which will result from Intrastate's cellular operations. The petitioner argues that an applicant is not permitted to use such an incremental cost analysis without providing the Commission with evidence that this approach is a reasonable way to estimate costs. We reject this view. Intrastate estimates construction and operation costs for the San Francisco system at $6,805,850. Application, Exhibit 15, Attachment C and D. The estimates and the cost analysis are not unreasonable on their face. In the San Jose market, CMS raised this same allegation against Intrastate. We states in our *San Jose Order*, at para. 34, that, in determining the costs of its cellular business an applicant need not ignore the assets it already owns in calculating the costs of constructing and operating a cellular system. Intrastate has fully documented its incremental costs. Accordingly, we decline to designate an issue on this basis.

18. CMS attacks Intrastate's financial showing, alleging that Intrastate has failed to demonstrate the availability of funds to cover its costs. CMS also challenges Intrastate's description of its financing arrangements. CMS argues that Intrastate has proposed a consolidated cellular system to serve both the San Jose and San Francisco markets in violation of the cellular rules requiring separate systems for each market.

19. In the *San Jose Order* at paras. 34–35, the Bureau found that Intrastate had demonstrated the availability of sufficient funds to construct and operate its San Francisco system. Accordingly, Intrastate was found to be financially qualified in San Francisco. In addition, the Bureau found that Intrastate had proposed separate cellular systems for San Jose and San Francisco and was thus in compliance with our rules precluding regionalized proposals. The Bureau also found that Intrastate had not violated § 22.917(b) by committing funds from one cellular market to another market in order to demonstrate

[1] On May 4, 1983, Intrastate filed an application for transfer of control of Intrastate, Delta Mobile Radio Service, Inc., its wholly-owned subsidiary, and Delta Telephone Answering Service, Inc. (the latter not a licensee) to Communications Industries, Inc., and ultimately to Gencom Incorporated. In addition on June 6, 1983, Intrastate and McCaw notified the Commission that by agreement dated May 27, 1983, McCaw and Intrastate have formed a General Partnership for the purpose of prosecuting a single cellular application for the San Francisco SMSA. The parties intend to file an amendment to the McCaw application specifying McCaw/Intrastate as the applicant as well as a motion for dismissal of Intrastate's application. Thus, both Intrastate's and McCaw's applications will have to be amended. In addition, because we have not yet received the agreement reflecting Gencom's acquisition of Intrastate, a copy of the settlement agreement and the amendments to the Intrastate and McCaw applications reflecting the partial settlement, we will establish the following procedures. First, the Commission must act on the transfer of control application. If the application is granted, Intrastate is then directed to file an amendment with the ALJ reflecting the transfer of control to Gencom. We will exempt, *sua sponte*, Intrastate from the "cut-off" provisions of § 22.31(e) of the Commission's rules and permit the ALJ in this proceeding to act on the transfer of control amendment. See Beep Communications Systems, Inc. and Metromedia, Inc., FCC 82T–28, released November 8, 1982. Intrastate and McCaw are also directed to file a copy of the settlement agreement and the application amendments reflecting the agreement with the ALJ who will act both on the settlement agreement and the amendments.

financial ability. These findings control the disposition of CMS' arguments here. Accordingly, we decline to designate a financial issue against Intrastate.

CMS Application

20. No petitions to deny or dismiss or comments were filed against the CMS application. We have reviewed CMS' application, and we find that the applicant had complied with all of our rules. Accordingly, we find CMS to be legally and technically qualified to construct and opeate its proposed cellular system.[8]

GTE Application

21. GTE is the remaining applicant for Block B (wireline) in the San Francisco market under the terms of a Limited Partnership Agreement submitted on October 19, 1982. This Agreement is one of a series of similar agreements by which AMPS and GTE, which had filed in 15 of these markets, together with 18 other wireline companies, proposed to settle their electrically mutually exclusive applciations in 18 of the top 30 markets. Pursuant to the terms of the Agreements, AMPS will opeate cellular systems in twelve markets and GTE will operate cellular systems in six markets, including San Francisco. Each partner will continue to prosecute its cellular applications in its specified continue to prosecute its cellular applications in its specified markets, while the other partners to the agreements will withdraw any applications in those markets. Under the terms of the San Francisco Agreement, GTE will have a 51 percent interest and AMPS will have a 49 percent interest. A Limited Partnership Agreement virtually identical to the San Francisco Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order)*, FCC 83–124, released April 26, 1983. We find the Commissin's decision to be dispositive of all objections to the San Francisco Agreement itself.[9] No petitions to deny or dismiss were filed against AMPS or GTE in the San Francisco market.

22. GTE also submitted a "Request for Waiver or Acceptance of Amendments", along with an amendment filed September 13, 1982. The filings related to service contour overlaps of the GTE San Francisco Cellular Geographic Service Area (CGSA) into the San Jose SMSA. We find it unnecessary to rule on the pleadings or on the amendment. GTE is the wireline licensee in the San Jose SMSA. The two systems proposed by GTE are fully coordinated. Because there is no other wireline licensee for the San Jose SMSA, and because there is no real possibility of harmful electrical interference, there is no need to require GTE to amend its application or to shrink its 39 dBu contours to avoid overlapin into the San Jose SMSA. *See Advanced Mobile Phone Service, Inc. (New York Order)* CC Mimeo 2418, released February 18, 1983 at para. 41. Accordingly the "Request for Waiver or Acceptance of Amendments" will be dismissed as moot, and the amendment will be returned under separate cover.

Conclusions

23. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that, except to the extent dicussed here, the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems.

24. Accordingly, it is ordered, pursuant to § 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership Agreement filed by GTE Mobilnet of San Francisco, Incorporated, and Advanced Mobile Phone Service, Inc. is granted and the accompanying Limited Partnership Agreement is APPROVED.

25. It is further ordered, That the amendment to the GTE Mobilnet of San Francisco, Inc., application is ACCEPTED, that the amendment is exempted from the cut-off provisions under § 22.31(e)(3) and (4); and the amended GTE application, File No. 26058-CL-P-(5)-82, is GRANTED.[10]

26. it is further ordered, That the request for withdrawal of the applicationfiled by Advanced Mobile Phone Service, Inc., File No. 26025-CL-P-(3)-82 is GRANTED and the application is dismissed.

27. It is further ordered, That GTE's "Request for Waiver or Acceptance of Amendments" is dismissed as moot, and the related amendment will be returned under separate cover.

28. It is further ordered, Pursuant to Section 309 of the Communications Act of 1934, as amended, that the above-captioned nonwireline applications are designated for hearing in a consolidated proceeding, upon the following issues:[11]

(a) To determine whether four alternate cell sites proposed by Cellnet are available;

(b) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[12] to determine and compare the relative demand for the services

[8] The Commission has already concluded that Graphic Scanning Corporation, CMS' parent, is financially qualified to construct and operate cellular systems in all thirty markets, including San Francisco, for which CMS has applied. Advanced Mobile Phone Service, Inc. (*Chicogo Order*) 91 FCC 2d 512 (1982), at paras. 6–12.

[9] The Commission required the deletion of one provision of the Los Angeles Agreement which restrained alienation of partnership interests. By amendment filed on June 17, 1983, GTE deleted this same provision from the San Francisco Agreement. We will accept the amendment, and we remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

[10] The authorization will be conditioned upon GTE obtaining antenna Struucture Clearances. GTE will not be authorized to render service to the public during sevice tests even after it files FCC Form 403 for a license. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. GTE's authorization (FCC Form 463) will reflect these conditions.

[11] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–502 (1981). We have found all of the applicants, except McCaw and Cellnet, included in the comparative hearing to be financially qualified. The financial qualifications of McCaw and Cellnet are in issue in another proceeding. The second issue not to be considered is the qualifications of Cellular Mobile Systems of California, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 37, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of California, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[12] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions as well as highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

proposed in said areas; and to determine and compare the ability of each applicant's cellular systems to accommodate the anticipated demand for both local and roamer service;

(c) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[13]

(d) to determine on a comparative basis the nature and extent to the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[14] and

(e) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

29. It is further ordered, That the burden of proceeding with the introduction of evidence upon the site availability issue, and the burden of proof, shall be upon Cellular Network, Inc.

30. It is further ordered, That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[15]

31. It is further ordered, That the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commisson's Rules within 10 days after publication of this order in the **Federal Register.**

32. It is further ordered, That the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

33. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

34. It is further ordered, That the Petitions to Deny filed by the various parties are denied and the Informal Objection filed by McCaw's is dismissed.

35. It is further ordered, That Cellnet is directed to file the site availability amendment specified in this order within 15 days after publication of this order in the **Federal Register** and the date for filing rebuttal cases under § 22.916(b)(4) is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issue designated against Cellnet shall be determined by the Judge in the Judge's discretion.

36. It is further ordered, That any authorization granted to Cellnet or McCaw as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of those company financial qualifications as determined in *GTE Mobilnet of San Jose et al (San Jose Order)* CC Mimeo 3974, released May 6, 1983.

37. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's basic qualifications to hold a cellular license following a final decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391 released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

38. It is further ordered, That the GTE authorization and any other authorization granted as a result of this proceeding shall be conditioned upon the obtaining of the appropriate antenna structure clearances.

39. This Order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. See also § 1.4(b)(2).

40. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-19296 Filed 7-15-83; 8:45 am]
BILLING CODE 6712-01-M

[13] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502-03.

[14] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[15] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative; or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934, as amended section 409(c) (47 U.S.C. 409(c); Administrative Procedure Act 554(d) (5 U.S.C. 554(d); § 1.221 of the Commission's Rules.

[MM Docket No. 83-654 et al.; File No. BPED-810701AB et al.]

Mesquite Independent School District, et al.; Hearing Desigation Order

In the matter of applications of Mesquite Independent School District, Mesquite, Texas, Req: 88.3 MHz, Channel 202A 3 kW(H&V), 300 Feet (H&V) (MM Docket No. 83-654, File No. BPED-810701AB); Southwestern Adventist College, (KSUC), Keene, Texas, Has: 88.3 MHz, Channel 202A 1.85 kW (H&V), 235 Feet (H&V), Req: 88.3 MHz, Channel 202C 50 kW (H&V), 235 Feet (H&V) (MM Docket No. 83-655, File No. BPED-811130BE) and North Texas State University (KNTU), Denton, Texas, Has: 88.1 MHz, Channel 201C 6.7 kW (H&V), 310 Feet (H&V), Req: 88.1 MHz, Channel 201C 100 kW (H&V), 400 Feet (H&V) (MM Docket No. 83-656, File No. BPED-811130BF), for construction permits.

Adopted: June 21, 1983.
Released: July 13, 1983.
By The Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau acting pursuant to delegated authority, has under consideration the above captioned mutually exclusive applications of Mesquite Independent School District, Southwestern Adventist College, and North Texas State University.

2. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67-673, released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limted to available noncomercial educational FM signals within the respective service areas.

3. The respective proposals, although for different communities would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

4. The Mesquite Independent School District indicates in a letter of July 29, 1982 that attempts to resolve the mutually exclusive situation by the applicants have been unsuccessful.[1] However, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequencies involved and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.*, 43 FR 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

5. In a *Public Notice*, dated July 22, 1981, the Commission announced that action would be withheld on applications for new educational FM stations and for modifications to existing educational FM stations which propose operation on Channels 200–207 and which are located within the Grade B contour of a television Channel 6 station, pending finalization of rulemaking under development in Docket 20735 dealing with interference to Channel 6 stations by educational FM stations. The application by Southwestern Adventist College appears to meet the criteria for withholding final action as it proposes construction on Channel 202A within the Grade B contour of KCEN–TV, Temple, Texas.[2] Accordingly, an appropriate condition will be specified in the event a construction permit is granted to this applicant.

6. Accordingly, it is ordered, That, purusant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing is a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues.

1. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the area and populations served thereby.

2. To determine whether a share-time arrangement between the applicants would result in the most effective use of the channels and thus better serve the public interest, and, if so, the terms and conditions thereof.

3. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That, in the event of a grant of the application of Southwestern Adventist College, program test authority shall not be authorized until the applicant has furnished the presiding Administrative Law Judge with a copy of an agreement with KCEN–TV regarding interference or until the rulemaking in Docket 20735 has been finalized, in which case grant of the application is subject to the outcome of that Docket.

8. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,
Chief, Audio Services Division.

[FR Doc. 83-19294 Filed 7-15-83; 8:45 am]
BILLING CODE 6712-01-M

[1] By letter dated July 19, 1982, the Chief, FM Branch, notified the applicants of their mutually exclusive status and afforded them an opportunity to explore alternative arrangements.

[2] As detailed in the *Public Notice*, an exception exists to withholding action for educational FM applicants which can reach an agreement with the Channel 6 TV station. No such agreement appears to have been reached between Southwestern Adventist College and KCEN–TV.

New FM Stations; Applications for Consolidated Hearing; MTF Enterprises, et al.

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. Thomas B. and Margrethe T. Friedman d.b.a. MTF Enterprises.	Los Osos-Baywood Park, Ca	BPH-810929AD	83-646
B. Long Cove Communications, Inc	Los Osos-Baywood Park, Ca	BPH-820302AX	83-647
C. Joseph M. Perez et al. d.b.a. Coastal Broadcasting Co.	Los Osos-Baywood Park, Ca	BPH-820520AO	83-648
D. Robert T. Mindte and Robert A. Mindte.	Los Osos-Baywood Park, Ca	BPH-820520AT	83-649
E. Denise Di Sandro and Michael P. Penrose d.b.a. Osos Valley Broadcasters.	Los Osos-Baywood Park, Ca	BPH-820524AD	83-650
F. Eduardo Diaz	Los Osos-Baywood Park, Ca	BPH-820524AX	83-651
G. Art James, Johnny Gilbert, and Steven Fuss d.b.a. Route One Radio.	Los Osos-Baywood Park, Ca	BPH-820524BO	83-652
H. Barbara A. Alpert, Norman R. Alpert and David E. Alpert d.b.a. Alpert Broadcasting Co.	Los Osos-Baywood Park, Ca	BPH-820524BF	83-653

2. Pursuant ot 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)
1. (See Appendix)	B, D
2. Comparative	All applicants
3. Ultimate	All applicants

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, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: B (Long Cove), D (Mindte):

[1] Paragraph 8 reads as follows:
The Material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
B (Long Cove)	Loan Commitment expired.
D (Mindte)	Loan Commitment expired.

[FR Doc. 83-19300 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; 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. Pike Broadcasting Corporation	Petersburg, IN	BPH-820316AI	83-671
B. Pike County Broadcasting Corporation	Petersburg, IN	BPH-820825AT	83-672

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)
1. Comparative	A, B
2. Ultimate	A, B

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, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-19302 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

[FCC 83-309; MM Docket Nos. 83-667 and 83-668; File Nos. BR-810527UB and BP-810831AT]

Seven Locks Broadcasting Co. and Celebrity Broadcasters, Inc.; Hearing Designation Order

In the matter of applications of Seven Locks Broadcasting Company, Has: 950 kHz, 1 kW, DA, D, for renewal of license for station WCTN Potomac-Cabin John, Maryland (MM Docket No. 83-667, File No. BR-810527UB) and Celebrity Broadcasters, Inc., Potomac-Cabin John, Maryland. Req: 950 kHz, 1 kW, DA, D (MM Docket No. 83-668, File No. BP-810831AT), for construction permit.

Adopted: June 29, 1983.
Released: July 8, 1983.

By the Commission, Commissioner Fogarty not participating.

1. The Commission has before it for consideration the above-captioned, mutually exclusive applications of Seven Locks Broadcasting Company ("Seven Locks") for renewal of its license for station WCTN, Potomac-Cabin John, Maryland, and of Celebrity Broadcasters, Inc. ("Celebrity") for a construction permit on the frequency occupied by WCTN. The applications must be designated for comparative hearing, because they are mutually exclusive. Celebrity also filed a petition to deny Seven Locks' renewal application. Such petitions are ordinarily considered predesignation motions to specify issues and dismissed as prematurely filed. They should be submitted to the presiding Administrative Law Judge after designation. *Revised Processing of Broadcast Applications*, 72 FCC 2d 202 (1979). In this case, however, we have elected to consider at this point Celebrity's allegations as to an unauthorized transfer of control, because a novel question has been raised that we have not recently had an opportunity to address.[1] [2]

[1] Seven Locks' opposition to the petition to deny was filed four day late. Nonetheless, we shall consider its opposition as to the issue of unauthorized transfer of control, because the pleading aids in the disposition of the allegations. Comments filed by Celebrity on June 15, 1983, to Seven Locks' Petition for Leave to Amend of August 30, 1982, and Seven Locks' reply to the comments, raise similar concerns which are pertinent to the unauthorized transfer of control issue.

[2] On August 30 and December 1, 1982, Seven Locks petitioned t amend its application to provide information required by § 1.65 of the Commission's Rules. Similarly, Celebrity petitioned to amend its application on November 9, 1981. For good cause shown, these amendments are accepted. Nonetheless, no comparative advantage will accrue to either applicant as a result of accepting the amendments.

2. Celebrity argues that an issue should be specified against Seven Locks for an alleged unauthorized transfer of control, a violation of Section 310(d) of the Communications Act of 1934, as amended.[3] All of the stock of Seven Locks is owned by Christ Church of Washington ("Church"), a nonprofit organization. The Church is run by a seven-person Board of Deacons. Celebrity contends that these Deacons are the same as the board of governors of a nonprofit organization and so should be considered by the Commission as the equivalent of equal owners of a for-profit organization. Four of the seven Deacons have been replaced since Seven Locks acquired the station in 1973. This constitutes a transfer of majority control, according to Celebrity, for which a transfer application must be filed and Commission consent obtained. Celebrity also contends that the former pastor of the Church controlled the affairs at the Church; that he was the driving force for the acquisition of the station; and that he was in direct control of the Church and the radio station. That pastor has since resigned his position, and a new pastor has been installed. This, according to Celebrity, resulted in a *de facto* transfer of control, which also required prior Commission approval. Celebrity concludes that a clear violation of a statutory provision has been committed by Seven Locks, and that this "shows a lack of proper qualifications to continue as a Commission licensee." Anticipating Seven Locks' response, Celebrity asserts that an absence of bad faith cannot mitigate this intentional violation, citing *Central Florida Enterprises, Inc.* v. *FCC*, 598 F.2d 37, 44 RR 2d 345 (D.C. Cir. 1978); *cert.* den. 441 U.S. 957 (1979).

3. Seven Locks first responds that a board of governors of a nonprofit corporation is only equated with a corporation's owners, for want of any other standard, to compare stock and non-stock corporate applicants under various comparative criteria, such as integration of management, past experience, and diversification. It maintains that in no previous case has the same analogy been used for determining when a transfer of control took place or a transfer application was required. It continues that *Placifica Foundation*, 41 FCC 2d 71 (Rev. Bd. 1973), with very similar facts, specifically held that it was unclear whether it was necessary to file a transfer application in a case where a majority of the board of a nonprofit applicant had gradually changed. Seven Locks further argues that, in general, it is inapt to treat a board of governors as the owners of a company.[4] It claims that its own Church has a "congregational" form of government, with a register of members and a continuity of "ownership" and "control," and that its Deacons, whose membership is controlled by the congregation, are better compared to a corporation's officers. It states that the Church's pastor is responsible to the Deacons and to the congregation, and thus does not have the "substantiality of the actual control" necessary to impute actual control.[5] Finally, Seven Locks argues that if it is determined on either grounds that a technical violation has occurred, such a violation is of little consequence and does not reflect adversely on its qualifications, especially in view of its complete disclosure of all relevant facts in its various filings with the Commission. It concludes that this case is even less compelling than the *Pacifica* case above, in which no adverse action was taken.

4. No unauthorized transfer of control issue can be added against Seven Locks on the basis of the evidence presented here. The Commission has never clearly set forth the circumstances which would constitute a transfer of control, requiring the prior consent of the Commission, with regard to nonstock corporate licensees or other licensee entities comprised of a membership body which elects a governing board. We do not believe it appropriate, in the context of the instant case, to set forth a broad policy of general applicability which would adequately address the question of a transfer of control covering all non-stock licensees. This is a matter which will be explored independently. For present purposes, it is sufficient to find that the necessity for such a filing was unclear, as it was in *Pacifica Foundation, supra*.[6] There is no evidence of any bad faith or intent to deceive by Seven Locks in this matter; to the contrary, all of its Ownership Reports and its subject application are accurate in denoting the current Deacons.[7] Finally, Celebrity has not presented sufficient evidence that the former pastor of the church exercised such *de facto* control of the radio station as to require the filing of a transfer application upon his retirement from the church. It has offered no specific facts to support its general allegation that the pastor was in direct control of the radio station. Its allegations concerning the pastor's position in the Church, even if substantiated, would not alone demonstrate that the change in pastors vested in a new individual "the right to

[3] "No * * * station license, or any rights thereunder, shall be transferred, assigned or disposed of in any manner, * * * directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby * * * ." 47 U.S.C. 310(d).

[4] Seven Locks contends that such a requirement puts an onerous and unnecessary burden on the Commission and on those institutions which have a high turnover rate in their governing bodies (for example, high schools or universities). Furthermore, the Commission's policies are not necessarily advanced, it argues, as many institutions have their control "diffused within the institution." An institution such as the Church has a continuity of "ownership" and "control" in the body of its congregation, which controls the membership of the Deacons, according to Seven Locks.

[5] *See WHDH, Inc.*, 17 FCC 2d 856 (1969).

[6] Since no adverse action would be taken in that case, the Review Board declined to state whether a transfer application was actually required. 41 FCC 2d at 72.

[7] In *Central Florida, supra*, which Celebrity cites, the court did state that "people are held to intend the obvious consequences of their acts." Id. at 52. The "Obvious consequences" which the court held that the licensee in that case must have intended was the *de facto* relocation of its main studio after a series of gradual shifts of activities from its nominal main studio. It continued in the next two sentences that "[the applicant] is chargeable with knowledge of the [subject] regulation. Thus, we are left with an intentional violation of a Commission Rule." *Id.* For the reasons stated above, Seven Locks cannot be chargeable with such knowledge. Celebrity also argues that because Seven Locks operates a commercial station, it is subject to some higher standard than the applicant for a noncommercial education station in *Pacifica, supra*. We find no basis upon which to distinguish the two situations.

determine the manner or means of operating the licensee and determining the policy that the licensee will pursue." *WHDH, Inc., supra.*

5. Celebrity has presented no evidence of compliance with the local public notice requirements of § 73.3580 of our Rules (47 CFR 73.3580) and will be ordered to do so, *infra.*

6. Celebrity and Seven Locks appear to be qualified to operate as proposed and their applications will accordingly be set for a comparative hearing.

7. Accordingly, it is ordered, That the petition to deny filed by Celebrity Broadcasting Company is granted to the extend indicated above and dismissed in all other respects.

8. It is further ordered, That Celebrity Broadcasters, Inc. shall inform the presiding Administrative Law Judge within thirty days of the release of this Order as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

9. It is further ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and 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.

12. It is further ordered, That the Secretary of the Commission shall send, by Certified Mail-Return Receipt Requested, a copy of this Hearing Designation Order to each of the parties to this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-19298 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

On July 11, 1983, the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D. C. 20503, (202) 395-7231.

Title: Annual Report Form M
Action: Extension
Respondents: Telephone Companies having annual operating revenues in excess of $1,000,000.
Estimated Annual Burden: 82 Responses; 9,430 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-19299 Filed 7-15-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-3787-5.

Title: Port of Seattle/Hapag Lloyd AG, Hamburg, Bremen Amended Lease Agreement.

Parties: Port of Seattle (Port) and Hapag Lloyd AG, Hamburg, Bremen (HL).

Synopsis: Agreement No. T-3787-5 modifies the basic Agreement No. T-3787 which provides for the Port's lease to HL of premises at Terminal 18, Seattle, together with preferential use of ship's berths and pier apron, two Port-owned container cranes and eight straddle carriers. The purpose of the modification is to segregate the berth and apron from the leased premises and the charges associated therewith. The berth, apron, and equipment are on a preferential use basis rather than a lease basis, on a ship-by-ship basis not to exceed five days.

Filing Party: Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No.: 9247-12.

Title: India, Pakistan, Bangladesh, Sri Lanka and Burma/ West Coast United States and Canada Rate Agreement.

Parties: The Scindia Steam Navigation Co., Inc. and the Shipping Corporation of India, Ltd.

Synopsis: Amendment No. 9247-12 amends the basic agreement to provide for an increase in rate authority by providing for collective determination of forwarder brokerage and a change in administrative rules providing that the security deposit provisions are suspended when membership falls below three members.

Filing Party: Charles L. Coleman, III, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 10480.

Title: Delta Steamship Lines, Inc./ Cameroon Shipping Lines S.A. Space Charter Agreement.

Parties: Delta Steamship Lines, Inc. and Cameroon Shipping Lines S.A.

Synopsis: Agreement No. 10480 is a non-exclusive, space available charter in the U.S. Gulf/Cameroon trade. There are no periodic minimum or maximum cargo requirements. The parties may share common expenses arising out of the administration of the Agreement.

Each party must advertise its respective service separately, retain separate counsel, and incur other expenses for its own account.

Filing Party: John B. Yellott, Jr., Esquire, Bowman Conner Touhey & Petrillo, 2828 Pennsylvania Avenue, NW., Washington, D.C. 20007.

By Order of the Federal Maritime Commission.

Dated: July 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19354 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License 1410-R]

Apollo International Co.; 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 license to maintain a valid bond on file.

The bond issued in favor of Apollo International Company, P.O. Box 52485, Houston, TX 77052 was cancelled effective July 2, 1983.

By letter dated June 3, 1983, Apollo International Company was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1410-R would be automatically revoked unless a valid surety bond was filed with the Commission.

Apollo International Company 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), section 10.01(f) dated November 12, 1981;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 1410-R be and is hereby revoked effective July 2, 1983.

It is ordered, That Independent Ocean Freight Forwarder License No. 1410-R issued to Apollo International Company 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 Apollo International Company.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-19352 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1789]

Cargo International Freight Service 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 Cargo International Freight Service Corp., 2250 N.W. 96th Avenue, Miami, FL 33172 was cancelled effective July 6, 1983.

By letter dated June 7, 1983, which was returned by the Post Office marked "returned to sender, moved, left no address," we attempted to advise Cargo International Freight Service Corp. that Independent Ocean Freight Forwarder License No. 1789 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cargo International Freight Service Corp. 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), section 10.01(f) dated November 12, 1981;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 1789 be and is hereby revoked effective July 6, 1983.

It is ordered, That Independent Ocean Freight Forwarder License No. 1789 issued to Cargo International Freight Service Corp. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in **Federal Register** and served upon Cargo International freight Service Corp.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-19353 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Eastern Forwarding International, Inc., et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as indepenedent 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.

Eastern Forwarding International, Inc., 7C Terminal Way, Avenel, NJ 07001
Officers: Jay L. Goldberg, President; Anna M. Goldberg, Secretary/Treasurer

Air-Oceanic Services, Inc., 13229 S.W. 10th Lane, Miami, FL 33184
Officers: Guillermo E. Velez, President/Treasurer; Elva A. Velez, Vice President/Secretary; Richard Caso Weil, Stockholder

Sempaco Inc. d.b.a. Pacific Packaging, 1432 Old Bayshore Hwy., San Jose, CA 94112
Officers: Mahmoud Oveyssi, President; Richard Gallegos, Chief Finance Officer; Siavash Vossoughi, Secretary

Charles Dorsch, Ship's Agent, Inc., 1983 Main Street, San Diego, CA 92113
Officers: Charles Conrad Dorsch, President/Director; Edmund Anthony Gann, Director; Joseph Machado Medina, Vice President/Director; Cosimo Louis Cutri, Secretary/Treasurer/Director

Dated: July 13, 1983.

By the Federal Maritime Commission.

Francis Hurney,

Secretary.

[FR Doc. 83-19355 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 127]

Joseph S. Lipinski, d.b.a. J. S. Lipinski Co.; Order of Revocation

On June 29, 1983, Jospeh S. Lipinski, d.b.a. J. S. Lipinski Co., 35 W. Capistrano Street, Toledo, OH 43612 requested the Commission to revoke his Independent Ocean Freight Forwarder License No. 127.

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 Lincense No. 127

issued to Joseph S. Lipinski, d.b.a. J. S. Lipinski Co., be revoked effective June 29, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Joseph S. Lipinski, d.b.a. J. S. Lipinski Co.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-19351 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-26; Agreement No. 5200]

Pacific Coast European Conference; 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 Docket No. 83-26 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.

Agreement No. 5200 is the basic Agreement of the Pacific Coast European Conference (PCEC). The Agreement authorizes the member lines to provide, among other things, minibridge service from Pacific Coast to European destinations via U.S. Atlantic, Great Lakes and Gulf ports. Article 1 of the Agreement requires a member line to give 120 days' advance notice to the Conference prior to offering an intermodal service. However, the Commission has found that such advance notice provisions unreasonably restrain Conference members from initiating intermodal services and thereby inhibit transportation innovation. Accordingly, the PCEC and its member lines have been ordered by the Commission to show cause why the Agreement should not be modified to delete the 120-day advance provision from Article 1 of the Agreement.

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 filled 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. 83-19307 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-29; Agreement No. 10286-2]

United States North Atlantic-Italy Pool Agreement; Investigation and Hearing

Agreement No. 10286-2 (Amendment 2), among Costa Line, Farrell Lines, Inc., "Italia" S.p.A.N., Jugolinija, Sea-Land Service, Inc., and Zim Israel Navigation Company, Ltd. (Proponents), has been filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). It amends Agreement No. 10286 (Agreement), a revenue pooling agreement among these carriers, all of whom are members of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (WINAC), by:

1. Permitting a member line, within 90 days of the end of a pool period, to carry a certain amount of another member's pool share, if authorized by unanimous vote, though such cargo would not be counted toward the basic pool share of the carrying line;

2. Altering the present provision concerning undercarriage compensation, so that only 50 percent of any compensation which cannot be paid out of the pool common fund will be paid by the overcarrier members, rather than 100 percent; and

3. Expanding the maximum and minimum permitted deviations from the basic pool shares.[1]

Amendment 2 has been characterized by Proponents as effecting adjustments in the Pool's accounting practices in order to make the Pool more equitable and fair. The change to Article 10.3 will allegedly allow the parties to conform their carriage to their pool shares without reducing the level of service offered to the shipping public. Proponents contend that such a change will create a disincentive for overcarriage and will result in only minimal adjustments, because it is limited to the last 90 days of a pool period. They further note that the procedure will be limited by the unanimous consent requirement.

[1] Proponents have suggested that this latter modification need not be filed for Commission approval because it comes within the purview of their existing authority to adjust their basic pool shares at any time (Article 10.2). The Commission agrees, and therefore, regardless of what actions Proponents take as a result of this Order, they are free to alter the permitted deviations from the basic pool shares.

The change in Article 11.4, which would require that 50 percent of undercarriage compensation (not covered by the pool fund) be paid by overcarriers, rather than 100 percent, is based on the contention that requiring overcarriers to pay all of the deficit may impose a disproportionate burden on them. The change is also viewed by Proponents as an incentive for carriers to attempt to carry their full pool share rather than rely on undercarriage compensation.

Proponents' explanation of the need for, and the expected effect of Amendment 2 is factually weak. They have not demonstrated that operations under their present agreement have resulted in significant reductions of service offered to the shipping public. Nor have they shown what experience leads them to conclude that the present undercarriage compensation provision may be a burden on overcarriers. In addition, pool reports received to date do not indicate a significant problem with undercarriers relying on penalty payments rather than carrying their allotted shares.

When Agreement No. 10286 was originally filed with the Commission, it was justified as a device to reduce malpractices and overtonnaging in the WINAC trade. As approved by the Commission and subsequently amended, the Agreement gave its members considerable flexibility to meet those goals. Amendment 2 introduces even further flexibility in the operation of the pool to the point where the efficacy of the pooling arrangement is put into question.

During the last three months of a pool period, overcarriers and undercarriers could offset any projected deviations from their pool shares. Moreover, when the pool common fund cannot fully compensate an undercarrier, overcarrier would be required to pay only 50 percent of the difference, rather than 100 percent as presently required. Nothing in Proponents' supporting statement indicates how these modifications will increase the effectiveness of the WINAC pool. In fact, information submitted pursuant to pool reports indicates that the pool may be having little success in its attempts to reduce overtonnaging in the trade.

Accordingly, the Commission is setting Agreement No. 10286-2 down for investigation and hearing. The purpose of this proceeding will be to explore the need for these modifications and their effect in terms of the objectives of the basic pool agreement. Proponents will thus be given a further opportunity to

support their proposed modifications in light of the Commission's concerns.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821), an investigation and hearing is instituted to determine whether Agreement No. 10286–2 should be approved, disapproved or modified. This investigation will address any material factual and legal issues including those discussed above; and

It is further ordered, That the Proponents of Agreement No. 10286–2 are hereby made Proponents in this proceeding; and

It is further ordered, That in accordance with the Commission's Rules (46 CFR 502.42) the Bureau of Hearing Counsel is hereby made a party to this proceeding; and

It is further ordered, That this matter is assigned for hearing and decision to the Commission's Office of Administrative Law Judges, with a public hearing to be held at a date and place hereafter determined by the Presiding Administrative Law Judge but in no event later than the time limitation set forth in Rule 61 (46 CFR 502.61). This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that oral hearing and cross-examination are necessary to develop an adequate record; and

It is further ordered, That persons other than those named herein having an appropriate interest and desire to participate in this proceeding may petition for leave to intervene pursuant to § 502.72 of the Commission's Rules (46 CFR 502.72); and

It is further ordered, That this order be published in the **Federal Register** and a copy served upon all parties of record; and

It is further ordered, That all future notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record; and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19308 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

North Atlantic United Kingdom Freight Conference, North Atlantic Baltic Freight Conference, North Atlantic French Atlantic Freight Conference; Termination of Contract Rate Systems

Filing Party: Bruce A. McAllister, Chairman, 17 Battery Place, New York, New York 10004.

Agreements Nos. 7100, 7670 and 7770.

Summary: By letters dated June 28, 1983, the Commission received notice that the above-captioned conferences are terminating their respective contract rate systems effective September 29, 1983.

Dated: July 13, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19366 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01

Puerto Rico Maritime Shipping Authority and Puerto Rico Ports Authority; Cancellation of Agreements Nos. T-3453 and T-3453-A

The parties to the above referenced agreements have advised that these agreements have been cancelled by mutual agreement of the parties, effective February 28, 1983.

Dated: July 13, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19367 Filed 7-15-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; One Valley Bancorp. of West Virginia, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *One Valley Bancorp. of West Virginia, Inc.*, Charleston, West Virginia; to acquire 100 percent of the voting shares or assets of Mercer County Bank, Princeton, West Virginia. Comments on this application must be received not later than August 10, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Bank South Corporation*, Atlanta, Georgia; to acquire 10 percent of the voting assets of Georgia Bancshares, Inc., Macon, Georgia. Comments on this application must be received not later than August 10, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Missouri Bancshares, Inc.*, Kansas City, Missouri; to acquire 32.89 percent of the voting shares or assets of Nodaway Valley Bank, Maryville, Missouri. Comments on this application must be received not later than August 10, 1983.

Board of Governors of the Federal Reserve System, July 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19185 Filed 7-15-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; Banc of Reynolds

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reseve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Banc of Reynolds*, Reynolds, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Reynolds, Reynolds, Indiana. Comments on this application must be received not later than August 12, 1983.

Board of Governors of the Federal Reserve System, July 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19184 Filed 7-15-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

New Examination for Alien Foreign Medical Graduates Visa Requirement

Section 601 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) amended Section 212 of the Immigration and Nationality Act to, among other things, provide that certain aliens who are graduates of foreign medical schools and are coming to the United States principally to perform services as members of the medical profession or to receive graduate medical education, shall be excluded from entering the United States unless, in addition to meeting other requirements, they have passed the National Board of Medical Examiners' Part I and Part II examinations, or an equivalent examination, as determined by the Secretary of Health, Education, and Welfare, now Health and Human Services.

On September 6, 1977 the Secretary, for the purposes of the above mentioned statute, designated the Visa Qualifying Examination, prepared by the National Board of Medical Examiners, as equivalent to the National Board of Medical Examiners' Part I and Part II examinations. Notice of that determination appeared in the **Federal Register** (42 FR 45037, September 8, 1977).

Notice is hereby given that the Foreign Medical Graduate Examination in the Medical Sciences, prepared by the National Board of Medical Examiners (NBME) and described below, has been determined by the Secretary of Health and Human Services to be equivalent to the National Board of Medical Examiners' Part I and Part II examinations, for purposes of Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182). The Secretary further has determined that the Visa Qualifying Examination will retain its current equivalency status while it continues to be administered. The Visa Qualifying Examination will be administered for the last time in September 1983; and the Foreign Medical Graduate Examination in the Medical Sciences will be administered for the first time in July 1984.

Equivalency in content, psychometric properties, and standards for passing constitute the basis for the determination of equivalency. The Foreign Medical Graduate Examination in the Medical Sciences covers topics identical to those encompassed in the NBME Part I and Part II examinations, with all test items selected from the pool of calibrated test items written by the NBME test committees for the purpose of measuring the achievement of medical students in United States schools. The basic science test includes approximately 500 multiple choice questions from the disciplines of anatomy, behavioral science, biochemistry, microbiology, pathology, pharmacology, and physiology in accordance with the subject outlines for the NBME Part I; and the clinical science test includes approximately 450 multiple choice questions from the disciplines of internal medicine, obstetrics and gynecology, pediatrics, preventive medicine and public health, psychiatry, and surgery in accordance with subject outlines for the NBME Part II.

Standards for passing the basic science test of the Foreign Medical Graduate Examination in the Medical Sciences will be derived from standards for passing the NBME Part I, and standards for passing the clinical science test will be derived from standards for passing the NBME Part II.

Persons interested in obtaining information concerning this Notice should contact: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6190.

Dated: July 11, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-19238 Filed 7-15-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8402]

Alaska Termination of Proposed Withdrawal and Reservation of Lands

Effective date: July 18, 1983.

The U.S. Department of Agriculture filed application AA-8402 on 14 May 1973 for a Water Influence Zone and Recreation Area on Montana Creek in the North Tongass National Forest, Alaska. Notice was published in the **Federal Register** 4 October 1973 (vol. 38, No. 192, page 27536, Document No. 73-21125), and republished 25 February 1980 (vol. 45, No. 38, FR Doc. 80-5650, filed 22 February 1980).

On 7 June 1982, the Forest Service requested the withdrawal application be rescinded and the segregation order be terminated to clear the way for the conveyance of these lands to the State of Alaska.

Therefore, the segregative effect of the proposed withdrawal is hereby terminated.

This order does not otherwise affect the status of the lands, and they remain subject to other withdrawals of record.

Gerald W. Zamber,

Acting State Director.

[FR Doc. 83-19196 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-84-M

Battle Mountain District, Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Battle Mountain District Advisory Council Meeting.

SUMMARY: The Battle Mountain District Advisory Council will meet at the Eureka County Courthouse. The meeting will convene at the foyer of the Eureka County Courthouse and will dispatch for a morning tour of the Mount Hope project area and potential land sale areas in Diamond Valley.

The meeting will reconvene after lunch at the conference room at Eureka Producers Cooperative Building, 9th Street and Nevada State Highway 278, 12 miles north of Eureka, Nevada. This

portion of the meeting will accomodate an update on the Shoshone-Eureka Resource Management Plan (RMP), land sale issues in the RMP, discussion of riparian management issues, update on new planning regulations, and council discussion and deliberation.

DATES AND TIMES: The Battle Mountain District Advisory Council meeting will convene at 8:30 a.m. on September 7, 1983. Members of the public are welcome to make oral comments at 4:30 p.m. Persons wishing to do so should contact H. James Fox.

ADDRESSES: The Battle Mountain District Office is located at North 2nd and Scott Streets in Battle Mountain, Nevada. Mail should be sent to Post Office Box 1420, Battle Mountain, Nevada 89820.

FOR FURTHER INFORMATION CONTACT: H. James Fox, Battle Mountain District Manager at the above address or telephone (702) 635–5181.

Dated: July 8, 1983.

H. James Fox,

District Manager, Battle Mountain, Nevada.

[FR Doc. 83-19358 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Indian Affairs

Red Lake Band of Chippewa Indians; Plan for the Use and Distribution of Red Lake Band of Chippewa Indians' Judgment Funds in Docket 189–C Before the United States Court of Claims

April 20, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 15, 1982, in satisfication of the award granted to the Red Lake Band of Chippewa Indians in Untied States Court of Claims Docket 189–C. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 8, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on November 29, 1982, and by the Senate on November 30, 1982. The plan became effective on March 14, 1983, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on January 15, 1982, in satisfaction of an award granted to the Red Lake Band of Chippewa Indians of the Red Lake Reservation in Minnesota in Docket 189–C (Exception 8–1904 Act disposal claim) before the United States Court of Claims, including all interest and investment income accured, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* Eighty per centum of the Red Lake Band of Chippewa Indians share of the funds in this award shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons who were born on or prior to and living on the effective date of this Plan who are enrolled members of the Red Lake Band of Chippewa Indians.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, subpart D. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10 (a) and (b)(1) and 115.4.

B. *Programing.* Twenty (20) percent of these funds shall be utilized by the Tribal Council for reservation community services consisting of programs identified under the headings Juvenile; Elderly; Incentive Awards-High School graduates; Health and Sanitation: Tribal Administration; Crime Victim Reparation; Credit Program; Fire Prevention and Safety; Industrial Development; and Burial Allowance, in accordance with the provisions of Tribal Council Resolution No. 8–82 adopted January 19, 1982, by the Red Lake Band of Chippewa Indians tribal council and subject to the approval of the Secretary of the Interior.

C. *General Provisions.* None of the funds distributed per capita or held in trust under the provisions of this plan shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistnce under the Social Security Act. Any amount remaining after the per capita payment shall revert to the programing portion of this award."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-19187 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-02-M

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0138, Block 45, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region

[FR Doc. 83-19189 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Finding of No Significant Impact for the Development Concept Plan/Environmental Assessment Steel Creek-Lost Valley; Buffalo National River, Arkansas

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental

Manual, the National Park Service has prepared a Finding of No Significant Impact for the Development Concept Plan/Environmental Assessment, for the Steel Creek-Lost Valley area, Buffalo National River, Arkansas.

A Proposal/Assessment, Development Concept Plan, which delineated a proposal and two alternatives to provide for the repair and maintenance of existing facilities, and for the development of new facilities and utilities, at the Boxley, Lost Valley, Ponca, and Steel Creek areas of Buffalo National River, Arkansas, was prepared and distributed in December 1980.

Based on public review input received and on management decisions, the proposal has been selected as the plan of development. The proposal best provides for the repair and maintenance of existing facilities to upgrade operational and safety standards, and for the development of new facilities and utilities for recreational use and interpretation of the park's resources, while assuring the preservation and management of the park's aesthetic values.

It is the conclusion of the National Park Service that the proposal is not a major Federal action that will significantly affect the human environment. Therefore, an environmental impact statement will not be prepared. The National Park Service will proceed with development of a Final Development Concept Plan, to be implemented as funds are available.

Copies of the Finding of No Significant Impact are available, upon request, from the Superintendent, Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72601; and the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501.

Dated: July 6, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-19192 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-70-M

Kalaupapa National Historical Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Kalaupapa National Historical Park Advisory Commission will be held at 9:00 a.m. on Thursday, August 18, 1983, at Paschoal Community Hall, Kalaupapa, Molokai, Hawaii.

The Advisory Commission was established by Pub. L. 95–565 to provide advice with respect to park development, operations, public visitation, and employee training.

Members of the Commission are as follows:

Rev. David K. Kaupu, Chairman
Mr. Clifford K. Anderson
Mr. Robert L. Barrel
Mrs. Kuulei Bell
Mr. James Brede
Mr. Shoichi Hamai
Mr. Paul Harada
Mr. Isaac Keao
Mr. Richard Marks
Mr. Ralston Nagata
Mr. Bernard Punikaia

This meeting will be devoted to issues related to the proposed language of cooperative agreements between the National Park Service and the State and to procedures for handling jurisdiction when the park is in operation. The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Mr. Bryan Harry, Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850; telephone (808) 546–7584.

Minutes of the meeting will be available for public inspection by October 21, 1983, in the Office of the Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Room 6305, Honolulu, Hawaii.

Dated: July 7, 1983.

John D. Cherry

Acting Regional Director, Western Region.

[FR Doc. 83-19190 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public hearing of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Monday, August 8, 1983 at 7:30 p.m. in the main meeting hall at the Thousand Oaks Public Library, 1401 East Janss Road, Thousand Oaks, California.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The topics for discussion will be the following: Superintendent's Status Report, Draft Development Concept Plan for Rancho Sierra Vista, Public hearing on hunting within the National Recreation Area, Visitor Use Committee Report.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

A summary of public comment will be available for public inspection by September 30, 1983 at the above address.

Dated: July 6, 1983.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 83-19191 Filed 7-15-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; 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).

DATES: The exemptions will be effective on August 17, 1983. Petitions for reconsideration must be filed by August

8, 1983. Petitions for stay must be filed by July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the 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 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–15155]

Bacon Motor Express, Inc.—Purchase Exemption—Scott Transfer, Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, Case control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Warren A. Goff, Goff & Stroud, 109 Madison Avenue, Memphis, TN 38103.

Pleadings should refer to No. MC–F–15155.

Decided: July 11, 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 Bacon Motor Express, Inc. (MC–106863) of all the operating rights of Scott Transfer, Inc.,[1] i.e. Certificate No. MC–117956 (Sub-Nos. 13, 18, 19X and P–20X), authorizing the transportion of: rubber and plastic products between the facilities of a named company in the United States, on the one hand, and, on the other, points in the United States; furniture between Mobile, AL, on the one hand and on the other points in four southeastern States and Ohio; food and related products between Atlanta, GA, on the one hand and on the other, points in 21 States located throughout portions of the United States; and specified commodities (including such items as food and related products, currency, paper and related products, and machinery) between specified points in the southeastern portion of the United States and in a specified county in the eastern portion of the United States, on one one hand, and on the other, points, for the most part, located in the southeastern portion of the United States; and also Permit No. MC–117956 (Sub-Nos. 14, 15, 17, P–20X, and 21), authorizing the transportation of: general commodities (except classes A and B explosives) between points in the United States under continuing contract(s) with named companies of Baton Rouge, LA, Memphis, TN, Tampa, FL, Atlanta, GA, and Hampton, FL; containers between points in the United States, under continuing contract(s) with a named shipper of Morrow, GA; and specified commodities between points in the United States under continuing contract(s) with 20 named shippers.

[No. MC–F–15227]

Robert P. Layman—Continuance in Control Exemption—Alex City Salt Terminal, Inc. and North Alabama Express, Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Donald B. Sweeney, Jr., Esq., P.O. Box 2366, Birmingham, AL 35201.

Pleadings should refer to No MC–F–15227.

Decided: July 8, 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, the continuance in control by Robert P. Layman, of the interstate operating rights and property of Alex City Salt Terminal, Inc. (No. MC–158507) and North Alabama Express, Inc. (No. MC–97260).

[No. MC–F–15273]

Whitehall Transport, Inc.—Purchase Exemption—Fifth Wheel Trucking, Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423,

(2) Petitioners' representative: Joseph E. Ludden, McDonald, Ludden & Munson, Ltd., 2707 South Avenue, P.O. Box 1567, La Crosse, WI 54601.

Pleadings should refer to No. MC–F–15273.

Decided: July 8, 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 Whitehall Transport, Inc. (No. MC–144057), of the interstate operating rights of Fifth Wheel Trucking, Inc., contained in No. MC–149184 (lead certificate and Sub-No. 1); and we also exempt the tacking by Whitehall of the operating rights being acquired from Fifth Wheel in part (1) of its lead certificate to the operating rights currently held by Whitehall in No. MC–144057 (Sub-No. 4)X.

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.

[MC–F–15216]

EBY Bros., Inc.—Purchase Exemption—Shoemaker Transportation Company (Loren Wetzel, 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: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701.

Pleadings should refer to MC–F–15216.

Decided: July 11, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under U.S.C. 11343(e), the purchase by Eby Bros., Inc. of the authorities issued to Shoemaker Transportation Company in paragraphs 1 and 6 of No. MC–138875 and a portion of paragraph 27 of Sub-No. 312X which involve the transportation of building materials and lumber and wood products between certain points in Idaho and Arizona, New Mexico and Wyoming and waste or scrap materials between certain points in Idaho and Oregon, Utah, Wyoming, Nevada, California, Oregon and Washington.

[No. MC–F–15236]

Van de Hogen Cartage, Inc.—Purchase Exemption (Portion)—Sawyer Transport, Inc., and Warsaw Trucking Co., Inc. (Nathan Yorke, Trustee-In-Bankrutpcy)

Addresses: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners' representative: William J. Hirsch P.C., 64 Niagara Street, Buffalo, NY 14202, and

Carl L. Steiner, Esq., Axelrod, Goodman, Steiner & Bazelon, Chicago, IL 60603.

[1] By letter dated June 17, 1983, petitioners Scott Transfer, Inc., and Bacon Motor Express, Inc., have amended their petition for exemption to a proposed purchase by Bacon of the operating rights of Scott Transfer rather than a merger of Bacon into Scott as originally proposed. Consequently, the notice of proposed exemption appearing in 48 FR 12861 is superseded and amended to reflect the proposed purchase by Bacon of the operating rights of Scott.

Pleadings should refer to No. MC–F–15236.

Decided: July 11, 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 Van De Hogen Cartage, Inc., (MC–164874) of the authorities issued to Sawyer Transport, Inc., in No. MC–123407 (Sub-Nos. 179, 199, 285, 314, 388, 470, 483, 566, 627, 645, and paragraphs 90, 99, 143, 157, 244, 254, 294, 314, and 326 of Sub-No. 668X), and the authorities issued to Warsaw Trucking Co., Inc., in No. MC–123294 (Sub-Nos. 10, 15, 24, 26, 42, 63, 85, and 46, paragraphs (4)(a) and (b), (6), (10)(a)(b)(c)(d) and (e), (13)(a) nd (b), (15), (17), (20), (24), (29)(a) and (b), (39), (44), (59), and (42), of Sub-No. 91X) and specified portions of its lead and Sub-No. 7 certificates by Sub-No. 91X, which authorizes, respectively, nationwide nonradial transportation of machinery, and transportation of metal products between points in Illinois, Ohio, Michigan, Missouri, Iowa, and Kentucky, and radially between specified Ohio and Indiana counties, on the one hand, and, on the other, points in all, or portions of the United States, in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

[No. MC–F–15238]

Centre, Ltd.—Control Exemption—Cartwright Van Lines, Inc., and Cartwright Moving & Storage Co., Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902.

Pleadings should refer to No. MC–F–15238.

Decided: July 11, 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)(4), the acquisition of control of 100 percent of the issued and outstanding stock of Cartwright Van Lines, Inc. (MC–88368), and 80 percent of the issued and outstanding stock of Cartwright Moving & Storage Co., Inc. (MC–152324), by Centre, Ltd. Cartwright International Van Lies, In. (FF–360) is a subsidiary of Cartwright Van Lines, Inc.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83–19213 Filed 7–15–83 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approved exemption in No. MC–F–15219.

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. 11343, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemption was effective on July 15, 1983. Petitions for reconsideration must be filed by July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served concurrently 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. No. MC–F–15219

Motorcar Transport Company—Merger Exemption—Automobile Carriers, Inc.

Addresses: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: J. Andrew Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, or

Peter A. Greene, 1920 N St., N.W., Washington, D.C. 20036.

Pleadings should refer to No. MC–F–15219.

Decided: July 11, 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)(1), the merger of Automobile Carriers, Inc. (ACI) (MC–113436) into Motorcar Transport Company (MTC) (MC–60470), with the new entity remaining under continued control of Leaseway Transportation Corp., a non-carrier holding and management company.

By the Commission, Division 1, Commissioners Andre, 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.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19214 Filed 7–15–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 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 OP3-FC-326

No. MC-81511. By decision of July 8, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board, Members Fortier, Krock, and Dowell, approved the transfer to LA CADENA SHIPPING CO., INC., of Bronx, NY, of Certificate No. MC-149424 Sub 1, issued April 22, 1981, to LILLIAN COLON, d.b.a. SHAPIRO'S VAN LINES, of Brooklyn, NY, authorizing the transportation of *household goods*, as defined by the Commission, between Brooklyn, NY, on the one hand, and, on the other, points in NY, NJ, PA, DE, MO, VA, NC, SC, GA, FL, and DC. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

No. MC-FC-81551. By decision of July 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board Members Carleton, Williams, and Dowell, approved the transfer to H. P. LEASING, INC., d.b.a. H.P.I., of Somerset, MA, of Certificate No. MC-156045 (Sub-4), issued June 7, 1983, to H. P. LEASING, INC., of Somerset, MA, authorizing the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Representative: Francis E. Barrett, Jr., 22 Central St., Hingham, MA 02043.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume, No. OP4-FC-435

No. MC-FC-81590. By decision of July 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Fortier, Krock, and Williams, approved the transfer to RED RIVER DISPATCH, INC., of East Grand Forks, MN, of License No. MC-158146, issued June 10, 1982, to Darrel Sanburg, d.b.a. New Horizon Transportation, of Grand Island, NE, authorizing transportation as a *broker*, of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume, No. OP5-FC-338

MC-FC 81268. By decision of July 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, The Review Board, Members Parker, Williams and Dowell, approved the transfer to LEHIGH VALLEY REFRIGERATED SERVICES, of Fogelsville, PA, of Certificate No. MC-145468 Sub 53, issued June 18, 1982, to KSS TRANSPORTATION CORP., of North Brunswick, NJ., authorizing the transportation of *food and related products*, between points in Lackawanna and Lehigh Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114.

Note.—The authority above duplicates that being retained by the transferor in No. MC-145468 Subs. 40, 43X, 44, 46X, 47, and 49 authorizing the transportation of *food and related products*, between various origins, on the one hand, and, on the other, points in the U.S., and in Sub 55 authorizing the transportation of *general commodities* between points in the U.S. (except AK and HI).

No. MC-FC-81559. By decision of July 6, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, The Review Board, Members Dowell, Joyce and Fortier, approved the transfer to RANDALL L. DAWSON, d.b.a. RANDY'S WRECKER SERVICE, of Port Wentworth, GA, of Certificate No. MC-142179 Sub 1, issued January 10, 1978, to William C. Sapp, Jr., and James P. Sapp, d.b.a. SAPP SERVICE CENTER, of Port Wentworth, GA authorizing the transportation of *wrecked, damaged, or disabled vehicles and replacement vehicles therefor*, by use of wrecker equipment, betweeen points in GA, on the one hand and, on the other, points in AL, FL, NC, SC, TN, VA and WV. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202.

No. MC-FC-81562. By decision of July 8, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1181, the Review Board, Members Krock, Parker and Joyce, approved the transfer to ROBERT E. BARIGAR AND HARVEY PLUMMER d.b.a. CHASE PRODUCTS TRUCKING, of Buhl, ID, of Permit No. MC-156439 issued May 18, 1982 authorizing the transportation of general commodities (except classes A and B explosives and household goods, as defined by the Commission), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with Lewis Foods, a division of CHB Foods, Inc., of Long Beach, CA and Chase Products, Inc., of Hagerman, I.D. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume, No. OP5-FC-345

No. MC-FC-81583. By decision of July 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, The Review Board, Members Dowell, Carleton and Parker, approved the transfer to HURTGEN TRUCKING, INC., of Glenwood City, WI, of Certificate No. MC-16649 issued October 21, 1981 to MARVIN CASSELLIUS of Glenwood City, WI, authorizing the transportation of *General commodities* with exceptions, between points in WI and MN; (2) *livestock and agricultural commodities*, from points in WI, to points in MN; and (3) *feed, salt, poultry remedies, flour, insecticides, and petroleum products*, from points in MN to points in WI. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424.

[FR Doc. 83-19218 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 8, 1983.

RTC Transportation, Inc. (MC-107515), Coastal Transport and Trading Co. (MC-121654) and The Squaw Transit Co. (MC-119176) petition for waiver of Subpart B, § 1057.11(c), Subpart C, § 1057.22(a), and Subpart D, § 1057.31(d), of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are all regulated carriers operating under authorized common control (Dockets MC-F-14830 and MC-F-13209). They have a common safety and maintenance program.

The petition indicates that the carriers are seeking waivers of specific regulation which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves. The petition clearly indicates that this interchange is of a trip-lease nature, saying in pertinent part:

> RTC, Coastal and Squaw * * *, desire to trip lease motor vehicle equipment * * * in order to provide service.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49

CFR Part 1057, Subpart C, § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC–168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> * * * Our research has not revealed, conditions that exist in carrier/carrier relationships which are similiar to those that chronically exist in carrier/owner-operator relationships * * *. That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of RTC Transportation, Inc. (MC–107515), Coastal Transport and Trading Co. (MC–121654) and The Squaw Transit Co. (MC–119176) petition for waiver of Subpart B, § 1057.11(c), and Subpart D, § 1057.31(d), of the *Lease Interchange of Vehicles* regulations (49 CFR Part 1057) is denied for the reason that the Sections have no application to the trip leasing of equipment between regulated carriers.

2. Waiver is granted, however, to the following conditional provision of 49 CFR Part 1057, Subpart C, § 1057.22(a) equipment identification.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment between the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19204 Filed 7–15–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 11, 1983.

Evangelist Commercial Corporation (MC–141124) and Tara Trucking, Inc. (MC–162573), petition for waiver of Subpart B, §§ 1057.11 and 1057.12, of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are regulated carriers operating under common control (Docket MC–FC–79759). The two companies jointly administer a common safety program and share terminal and maintenance facilities.

The petition indicates that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C, Section 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC–168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> * * * Our research has not revealed, conditions that exist in carrier/carrier relationships which are similiar to those that chronically exist in carrier/owner-operator relationships * * * That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from §1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of Evangelist Commercial Corp. (MC–141124) and Tara Trucking, Inc. (MC–162573), for waiver of Subpart B, §§ 1057.11 and 1057.12 of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) is denied as filed.

2. Waivers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C, § 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(a) equipment identification, (d) limited directional return of equipment and (e)(2) insofar as it requires the issuance of receipts. In lieu of such receipts however, times of equipment possession must be identifiable by normal dispatch records of the involved carriers.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment between the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19205 Filed 7–15–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 11, 1983.

Keller Transfer Line, Inc. (MC-82079), Capital Express, Inc. (MC-114608), and Rooks Transit, Inc. (MC-13700), petition of waiver of paragraph (a)(3) of § 1057.4 of *Lease and Interchange of Vehicle Regulations* (49 CFR Part 1057).

We find:

Petitioners are all regulated carriers operating under common control recognized in MC-F-9433. They all operate from a single facility at 5635 Clay Avenue, S.W., Grand Rapids, Michigan. The equipment utilized is all under long-term lease from and maintained by Capital Leasing, Inc., of the same address.

Two of the petitioners, Keller Transfer Line, Inc., and Capital Express Inc., were granted waiver of § 1057.12(c) in October of 1979. (This section replaced the § 1057.4(a)(3) which no longer exists although the current petition seeks waiver of a regulation so identified.)

The petition indicates that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves. The petition indicates that this interchange is of a trip-lease nature. Petitioners also indicate that since they were granted a wiaver to § 2057.12(c), which requires a lease of 30 days minimum duration, they are free to trip lease the vehicles between themselves. Such is not the case.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C. § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC-168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of Sections 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> * * * Our research has not revealed, conditions that exist in carrier/carrier relationships which are similar to those that chronically exist in carrier/owner-operator relationships. . . . That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seek waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of Keller Transfer Line, Inc. (MC-82079), Capital Express, Inc. (MC-114608), and Rooks Transit, Inc. (MC-13700), for waiver of paragraph (a)(3) of Section 1057.14 of *Lease and Interchange of Vehicle Registration* (49 CFR Part 1057) is denied.

2. Waivers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C. § 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(d) limited directional return of equipment and (e)(2) insofar as it requires the issuance of receipts. In lieu of such receipts however, times of equipment possession must be identifiable by normal dispatch records of the involved carriers.

3. All provisions of § 1057.22 other than that waived above, will be applicable to the exchange of equipment among the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19206 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 11, 1983.

Fleet Transport Co., Inc. (MC-103051), Gypsum Haulage, Inc. (MC-112113), Max Binswanger Trucking (MC-116314), Balser Truck Co. (MC-96630), Mitchell Transport, Inc. (MC-124212 and MC-152085), Refiners Transport and Terminal Corporation (MC-50069), and A. R. Grundy, Inc. (MC-25562), petition for waiver of Subpart B, §§ 1057.11 and 1057.12 of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are all regulated carriers operating as the Bulk Materials Group of Leaseway Transportation Corp. The common control has been approved by the Commission in Dockets MC-F-8924, MC-F-14754, and MC-F-12777. They also have a uniform driver training program and comprehensive vehicle maintenance system.

The petition indicates that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC-168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, sayings:

> * * * Our research has not revealed, conditions that exist in carrier/carrier relationships which are similiar to those that chronically exist in carrier/owner-operator relationships * * *. That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of sections 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason,

rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of Fleet Transport Co., Inc. (MC–103051), Gypsum Haulage, Inc. (MC–112113), Max Binswanger Trucking (MC–116314), Balser Truck Co. (MC–96630), Mitchell Transport, Inc. (MC–124212 and MC–152085), Refiners Transport and Terminal Corporation (MC–50069), and A. R. Grundy, Inc. (MC–22562), for waiver of Subpart B, §§ 1057.11 and 1057.12, of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) is denied as filed.

2. Waivers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C, Section 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(a) equipment identification, (d) limited directional return of equipment and (e)(2) insofar as it requires the issuance of receipts. In lieu of such receipts however, times of equipment possession must be identifiable by normal dispatch records of the involved carriers.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment among the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19207 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte no. MC–43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 8, 1983.

Easter Enterprises d/b/a Ace Lines (MC–61231) and Hoffman Transfer, Inc. (MC–106200), petition for waiver of Subpart B, § 1057.11 (except (b)), § 1057.12, and Subpart C, § 1057.22(d) of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are both regulated carriers and under authorized common control (Docket MC–F–14524F). Their safety programs are conducted under guidelines common to both carriers.

The petition indicated that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves. The petition clearly indicates that this interchange is partially of a trip-lease nature, saying in pertinent part:

> In the conduct of their respective operations, both companies find it necessary or desirable from time to time to augment their fleets of equipment by trip-leasing equipment from each other.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C, § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC–168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR § 1057.22) permits authorized carries to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> * * * our research has not revealed, conditions that exist in carrier/carrier relationships which are similiar to those that chronically exist in carrier/owner-operator relationships * * * That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find tha a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and cost saving.

It is Ordered:

1. The petition of Easter Enterprises d/b/a Ace Lines (MC–61231) and Hoffman Transfer, Inc. (MC–106200), for waiver of Subpart B, § 1057.11 (except (b)), § 1057.12 and Subpart C, § 1057.22(d), Section 1057.12 and Subpart C, § 1057.22(d), of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) is denied as filed.

2. Waviers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C, § 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(a) equipment identification and (d) limited directional return of equipment.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment between the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19206 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC–43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: July 11, 1983.

Gabor Trucking, Inc. (MC–118838), and Kramer Trucking, Inc. (MC–116923), petition for waiver of Subpart B and Subpart D, § 1057.31(a) and (d), of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are regulated carriers and operating under approved common control (Docket MC–F–15087). The carriers have a common safety program and share maintenance facilities.

The petition indicates that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent interchange of vehicles between themselves. The petition clearly indicates that this interchange is of a trip-lease nature, saying in pertinent part:

> The present trip lease and interchange of the petitioning carriers are substantial.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C, § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC–168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein * * *

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> * * * Our research has not revealed, conditions that exist in carrier/carrier relationships which are similiar to those that chronically exist in carrier/owner-operator relationships * * * That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the interchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the interchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of Gabor Trucking, Inc. (MC–118838) and Kramer Trucking, Inc. (MC–116923), for waiver of Subpart B and Subpart D, § 1057.31(a) and (d), of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) is denied as filed.

2. Waivers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C, § 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(a) equipment identification, (d) limited directional return of equipment and (e)(2) insofar as it requires the issuance of receipts. In lieu of such receipts however, times of equipment pssession must be identifiable by normal dispatch records of the involved carriers.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment between the petitioners, as long as they remain regulated carriers under common control.

4. Contractural relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–19212 Filed 7–15–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common And Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Pare 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 to Team 1, (202) 275–7030.

Volume No. OP–1–280(F)

Decided: July 11, 1983.

By the Commission, Review Board Members Carleton, Parker, and Joyce.

MC 168911(B), filed June 27, 1983. Applicant: MILTON SCHRENGER, d.b.a. BLUE CHIP EXPRESS, 1728 Berry Blvd., Louisville, KY 40215. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. 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 intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Note.—Applicant has also requested authority in MC–168911(A) published this same **Federal Register** issue.

Please direct inquiries about the following to Team Four at (202) 275–7669.

Volume NO. OP4–441

Decided: July 11, 1983.

By the Commission, Review Board, Members: Dowell, Fortier, and Krock.

MC 111967 (Sub-14), filed June 27, 1983. Applicant: CADDELL TRANSIT CORPORATION, P.O. Box 146, Lawton, OK 73502. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 N. Classen Blvd., Oklahoma City, OK 73118 (405) 848–7946. 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), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP4–442

Decided: July 8, 1983.

By the Commission, Review Board, Members: Fortier, Krock and Williams.

MC 152937 filed June 30, 1983. Applicant: MERRICK & SONS MOVERS, INC., 5820 Webster St., Dayton, OH 45414. Representative: Kevin J. Osterkamp, Suite 2500, One Nationwide Plaza Columbus, OH 43215 (614) 228–5511. Transporting *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 169007, filed July 1, 1983. Applicant: GLORIA T. WARRENNER, 2001 New York Ave. N.E., Washington, DC 20002. Representaitve: Robert R. Harris, 1730 M St., N.W., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–343

Decided: July 7, 1983.

By the Commission, Review Board Members Krock, Parker, and Joyce.

MC 168648, filed June 11, 1983. Applicant: B. K. TRANSPORT, INC. 376 Duncan Ave., Jersey City, NJ 07306. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215–561–1030. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168949, filed June 28, 1983. Applicant: CHARLES BELVIN AND WILLIE BOWDEN, d.b.a. C. and C. BUS LINES, 1905 Vicki Lane, Atlanta, GA 30316. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, CA 30340, (404) 491–1696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP5–344

Decided: July 8, 1983.

By the Commission, Review Board Members Joyce, Dowell and Carleton.

MC 133078 (Sub-4), filed June 27, 1983. Applicant: T. ACHENBERG TRANSPORTATION CO., 208 Sheridan St., Perth Amboy, NJ 08861. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166538 (Sub-3), (B) filed June 27, 1983. Applicant: ACE EXPRESS TRANSPORTATION, P.O. Box 9380, Salt Lake City, UT 84109. Representative: Stuart Breinholt (same address as applicant) 801–263–3290. (1) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166538 Sub 3 (A) published in this same issue.

MC 166609 (B) filed June 27, 1983. Applicant: DAVID URY, d.b.a., D & D TRUCKING, 2804 228th N.E., Arlington, WA 98223. Representative: Jim Pitzer, P.O. Box 895, Renton, WA 98057, 206–235–1111. Transporting (1) for and on behalf of the United States Government *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166609, (A) published in this same issue.

Volume No. OP5–349

Decided: July 11, 1983.

By the Commission, Review Board Members Krock, Parker, and Joyce.

MC 158979 (Sub-1), filed June 30, 1983. Applicant: RIO TRANSPORTATION CORPORATION, P.O. Box 962, Cherry Hill, NJ 08003. Representative: Barry D. Kleban, 1900 Two Penn Center Plaza, Philadelphia, PA 19102, 215–568–7515. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168998, filed June 28, 1983. Applicant: GOLDEN STATE FREIGHT BROKERAGE, 3249 Mt. Diablo Blvd., Lafayette, CA 94549. Representative: Steven J. Kalish, 1750 Pennsylvania Ave., N.W., Washington, DC 20006, 202–

393-5710. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5-350

Decided: July 11, 1983.

By the Commission, Review Board Members Williams, Fortier, and Krock.

MC 143439 (Sub-3)(A) filed June 2, 1983. Applicant: RAILROAD TRANSFER SERVICE, INC., Box 355, Wyoming, RI 02898. Representative: Merle K. Alessandro Peirce (same address as applicant), (401) 295-0641. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—(1) Applicant seeks to provide privately-funded special and charter transportation. (2) Applicant also seeks authority in MC-143439 Sub 3 (B) published in this same issue.

MC 168579, filed June 9, 1983. Applicant: GAINES BUS SERVICE, 5113 Pughsville Rd., Chesapeake, VA 23321. Representative: William Gaines (same address as applicant), 804-484-5165. Transporting *passengers* in charter and special operations, beginning and ending at points in VA and NC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

[FR Doc. 83-19219 Filed 7-15-83; 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 interstate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authortiy will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. OP4-439

Decided: July 11, 1983.

By the Commission, Review Board, Members: Dowell, Fortier, and Krock.

FF-717, filed June 28, 1983. Applicant: DEDICATED FREIGHT FORWARDING SYSTEMS, INC., 521 S. LaGrange Rd., LaGrange, IL 60525. Representative: John T. O'Connell (same address as applicant) (312) 352-7220. As a *freight forwarder*, in connection the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 35077 (Sub-4), filed July 1, 1983. Applicant: COURIER SYSTEMS, INC., 123 Pennsylvania Ave., South Kearny, NJ 07032. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030 (703) 691-0900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, NY, CT, RI, MA, PA, VA, MD, DE, and DC.

MC 168386 (Sub-1), filed July 5, 1983. Applicant: SUE COLVIN d.b.a. SIOUX'S TRANSPORTATION, Rt. 5, Box 576, Springdale, AR 72764. Representative:

Larry D. Douglas, P.O. Box 711, 135 E. Emma Ave., Springdale, AR 72764 (501) 751-8804. Transporting *alcoholic beverages* and *fruit juices*, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NY).

Volume No. 440

Decided: July 8, 1983.

By the Commission, Review Board, Members: Fortier, Krock, and Williams.

MC 53237 (Sub-4), filed June 30, 1983. Applicant: ST. LOUIS TRANSPORTATION CO., 3548 Valleywood, St. Louis, MO 62114. Representative: C. C. Miller (same address as applicant) (314) 428-8391. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 149067 (Sub-4), filed July 1, 1983. Applicant: SUN VALLEY TRUCKING, INC., 149 Franklin St., Oakland, CA 94607. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986-8696. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Dannon Yogurt, Inc., of Long Island City, NY.

MC 163526 (Sub-1), filed June 30, 1983. Applicant: TRINITY PAPER & PLASTICS, INC., 529 5th Ave., New York, NY 10123. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239-4610. 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 Mo-Ark Truck Services, Inc., of Raytown, MO.

MC 167576 (Sub-1), filed June 29, 1983. Applicant: D. M. MITCHELL TRANSPORT CO., 3501 Wyoming Ave., Dearborn, MI 48120. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801, (616) 941-5313. Transporting *petroleum and petroleum products*, between points in MI, IL, IN, OH, PA, WV, and KY, under continuing contract(s) with Standard Oil Co., and its subsidiary, BP Oil, Inc., both of Cleveland, OH.

MC 168976, filed June 29, 1983. Applicant: R. J. RENNER TRANSPORT, RD. #2 Hwy 206, Vincentown, NJ 08088. Representative: Robert J. Renner, Jr. (same address as applicant), (609) 268-2421. Transporting (1) *food and related products*, (2) *lumber and wood products*, (3) *pulp paper and related products*, (4) *rubber and plastic products*, (5) *metal products*, (6) *transportation equipment*, and (7) *building materials*, between points in NJ and PA, on the one hand, and, on the other, those points in the U.S. 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, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 168997, filed July 1, 1983. Applicant: G & M TRANSPORTATION, 501 Second St., P.O. Box 422, Wickett, TX 79788. Representative: Roy Glasscock, 233 Pecan St., Odessa, TX 79762, (915) 366-4935. Transporting *oilfield equipment, material and supplies*, and *metal and metal products*, between points in CA, LA, NM, OK, and TX.

MC 169006, filed July 1, 1983. Applicant: MELROSE TRUCKING, INC., 122 Melrose Court, Bridgeville, PA 15017. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281-9494. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in PA, on the one hand, and, on the other, points in OH, WV, PA, NY and MD.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-340

Decided: July 8, 1983.

By the Commission, Review Board Members Williams, Joyce and Fortier.

W-431 (Sub-14), filed June 24, 1983. Applicant: SCNO BARGE LINES, INC., 12680 Olive Blvd., St. Louis, MO 63141. Representative: Richard H. Streeter, 1729 H Street, N.W., Washington, DC 20006, (202) 337-6500. Transporting *general commodities*, by water, by non-self propelled vessels with the use of separate towing vessels, in the transportation of commodities generally; by towing vessels in the performance of general towage; and in the furnishing of non-self propelled vessels or towing vessels for compensation under charter, lease, or other agreement; between ports and points along the Allegheny, Monongahela, Ohio, Green, Cumberland, Tennessee, Mississippi, St. Croix, Minnesota, Missouri, Kaskaskia, Chattahoochee, Apalachicola, Black Warrior, Tombigee, Mobile, Pearl, West Pearl, Neches, and Trinity Rivers; Illinois, Arkansas-Verdigris and Gulf Intracoastal Waterways; the Port Allen Route; and all tributaries and ship channels to the aforenamed rivers, waterways and route, under continuing contract(s) with Arthur J. Fritz & Co., of New Orleans, LA, Erman Howell Co., of Bannackburn, IL, and Quast & Company of Kenner, LA.

MC 168908, filed June 24, 1983. Applicant: SCNO BARGE LINES, INC., 12680 Olive Blvd., St. Louis, MO 63141. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006, (202) 337-6500. 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 Arthur J. Fritz & Co., of New Orleans, LA, Erman Howell Co., of Bannackburn, IL, and Quast & Company of Kenner, LA.

Volume No. OP5-341

Decided: July 7, 1983.

By the Commission, Review Board Members Krock, Parker and Joyce.

MC 168598, filed June 27, 1983. Applicant: L.B. TRUCK LINES, INC., 1911 Pioneer Blvd., Cerritos, CA 90701 Representative: Miles L. Kavaller, 315 South Beverly Dr., Suite 315, Beverly Hills, Ca 90212, 213-277-2323. 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 L.B. Transport Services, Inc., of Cerritos, CA.

MC 168608, filed June 8, 1983 (Republication) previously Published in **Federal Register** issue of July 5, 1983. Applicant: MISSION TRANSPORTATION SYSTEM, INC., 6750 Federal Boulevard, Suite C, Lemon Grove, CA 92045. Representative: Violet J. Pellman, (same address as applicant), (619) 287-4880. To operate as a *broker* of *household goods* between points in the U.S.

Note.—This republication reflects the proper decision notice.

MC 168919, filed June 27, 1983. Applicant: FIL-MOR EXPRESS, INC., Box 111, Nerstrand, MN 55053. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612-333-1341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Mead Johnson and Company, of Evansville, IN; Pillsbury Company, of Minneapolis, MN; Zenith Radio Corporation, of Chicago, IL; and Litton Microwave Cooking, Litton Industries, Inc., of Minneapolis, MN.

MC 168928, filed June 27, 1983. Applicant: WES'S SERVICE, INC., 928 Wilson, Calumet City, IL 60409. Representative: Irwin Rozlner, 134 North

LaSalle St., Chicago, IL 60602 312–782–6937. Transporting *wrecked and disabled motor vehicles* and *replacement vehicles thereof*, between points in IL, MN, WI, IA, IN, MI, OH, PA, MO, KY, TN, NE, KS, and AR.

MC 168938, filed June 27, 1983. Applicant: ASPHALT TRANSPORT CORPORATION, 10910 Lillian Lane, South Gate, CA 90280. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805–872–1106. Transporting *petroleum, natural gas and their products*, between points in AZ, CA and NV.

MC 168948, filed June 28, 1983. Applicant: ROGER RAMBO, d.b.a. J AND R, TRUCK RENTAL, Route 1 Box 840, Lindstrom, MN 55045. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, 612–927–8855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MN, ND, and SD, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 168958, filed June 28, 1983. Applicant: LARRY LABENSHY, d.b.a. L&S TRUCKING, 4411 N. Maryland Street, Milwaukee, WI 53211. Representative: Ronald E. Laitsch, 108 S. Second Street, Watertown, WI 53094, (414) 261–9725. Transporting *furniture*, between points in IA, IL, IN, MI, MN, and WI.

MC 168959, filed June 28, 1983. Applicant: FRONTIER TRANSPORT CORP., 310 South Kitley Ave., Indianapolis, IN 46219. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP5–342

Decided: July 8, 1983.

By the Commission, Review Board Members Joyce, Dowell and Carleton.

MC 121509 (Sub-14), filed June 27, 1983. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, IA 52761. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, (515) 288–6041. Transporting *grain products*, between points in the U.S., under continuing contract(s) with Grain Processing Corporation of Muscatine, IA.

MC 140889 (Sub-35), filed June 27, 1983. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: John Gramc, 4720 Beidler Rd., Willoughby, OH 44094, (216) 953–9300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with ITOFCA, Inc., and its subsidiary, ITOFCA Consolidators, Inc., both of Downers Grove, IL, and The Commercial Transportation Management Services, Inc., of Cleveland, OH.

MC 166319, filed June 20, 1983. Applicant: DUBOIS CONSTRUCTION, INC., P.O. Box 502, Three Mile Bridge Rd., Montpelier, VT 05602. Representative: Donald DuBois (same address as applicant), 802–223–5288. Transporting *machinery* and *those commodities which because of their size or weight require the use of special handling or equipment*, between points in ME, NH, VT, RI, CT, MA, PA, NJ, and NY.

MC 166538 (Sub-3), (A) filed June 27, 1983. Applicant: ACE EXPRESS TRANSPORTATION, P.O. Box 9380, Salt Lake City, UT 84109. Representative: Stuart Breinholt, (same address as applicant) 801–263–3290. Transporting (1) *chemicals and related products* and (2) *food and related products*, between points in Salt Lake County, UT, and Alameda County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166538 Sub 3 (B) published in this same issue.

MC 166609, (A) filed June 27, 1983. Applicant: DAVID URY, d.b.a. D&D Trucking, 2804 228th NE., Arlington, WA 98223. Representative: Jim Pitzer, P.O. Box 895, Renton, WA 98057, 206–235–1111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL and points in Snohomish County, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166609 (B) published in this same issue.

Volume No. OP5–347

Decided: July 11, 1983.

By the Commission, Review Board Members Krock, Parker, and Joyce.

MC 79658 (Sub-90), filed June 30, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, 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 General Electric Company, Nuclear Energy Business Operations, of San Jose, CA, and its affiliates, Calma Company, of Sunnyvale, CA and Intersil, of Cupertino, CA.

MC 117548 (Sub-6), filed June 28, 1983. Applicant: M&M TANK LINES OF VIRGINIA, INC., 2115 E. Jefferson St., Suite 400, Rockville, MD 20852. Representative: Michael A. Grimm, (same address as applicant), (301) 881–8300. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 123978 (Sub-7), filed June 30, 1983. Applicant: RICHEY & STEWART, INC., P.O. Box 235, Scottsburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Pennlube Packaging Corp., of Scottsburg, IN.

MC 155579 (Sub-1), filed June 30, 1983. Applicant: R J CARTAGE, INC., 1633 Maplewood Avenue, South Bend, IN 46628. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, and MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156769 (Sub-1), filed June 30, 1983. Applicant: HARE CARTAGE, INC., 7400 East McNichols, Detroit, MI 48234. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in U.S. (except AK and HI), under continuing contract(s) with NI Industries, Inc., of Novi, MI.

MC 156769 (Sub-2), filed June 30, 1983. Applicant: HARE CARTAGE, INC., 7400 East McNichols, Detroit, MI 48234. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Detroit, MI, on the one hand, and, on the other, points in Sanilac, Huron, Tuscola, Shiawassee, Saginaw and Bay Counties, MI.

MC 159928 (Sub-1), filed June 30, 1983. Applicant: M. A. SMITH, INC., d.b.a. L-B TRUCK LINES, P.O. Box M, Harbor City, CA 90710. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA

90609 (213) 945–2745. 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).

Volume No. OP5–348

Decided: July 11, 1983.

By the Commission, Review Board Members Williams, Fortier and Krock.

MC 30798 (Sub-4), filed June 29, 1983. Applicant: MILLER BROTHERS TRUCK LINE, INC., P.O. Box 3613, Houston, TX 77001. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768, 512–476–6391. Transporting *Mercer commodities*, between points in AL, AR, AZ, CA, CO, FL, GA, IL, KS, LA, MO, MS, MT, ND, NM, OK, SD, TX and WY.

MC 31389 (Sub-352), filed June 30, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First St., Winston-Salem, NC 27104. Representative: Daniel R. Simmons (same address as applicant), 919–721–2433. 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 H.J. Wilson Co., Inc., of Baton Rouge, LA.

MC 41098 (Sub-116), filed June 30, 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 Mobile Corporation of New York, NY, and its subsidiaries.

MC 49109 (Sub-1), filed June 22, 1983. Applicant: GUARDIAN MOVING AND STORAGE COMPANY, INC., 1901 Light Street, Baltimore, MD 21230. Representative: Robert J. Brooks, 1828 L Street NW., Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting (1) *household goods*, (2) *unaccompanied baggage*, (3) *furniture and fixtures*, (4) *used automobiles* and (5) *computers, electronic equipment and accessories and materials* used in connection therewith, between points in the U.S. (except MT).

MC 105269 (Sub-115), filed June 28, 1983. Applicant: GRAFF TRUCKING CO. INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Milinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. 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 The Upjohn Company, of Kalamazoo, MI.

MC 143439 (Sub-3(B)), filed June 2, 1983. Applicant: RAILROAD TRANSFER SERVICE, INC., Box 355, Wyoming, RI 02898. Representative: Merle K. Alessandro Peirce, (same address as applicant), (401) 295–0641. Over regular routes, transporting *passengers*, in intrastate, interstate or foreign commerce, (1) between Groton, CT and Newport, RI, from Groton over local streets to Interstate Hwy 95, then over Interstate Hwy 95 to junction CT Hwy 2, then over CT Hwy 2 to junction CT/RI Hwy 78, then over CT/RI Hwy 78 to junction US Hwy 1, then over US Hwy 1 to junction RI Hwy 138, then over RI Hwy 138 to Newport and return over the same route, (2) between Charlestown, RI and South Kingstown, RI, over US Hwy 1–A, (3) between Quonnochontaug, RI and US Hwy 1, over unnumbered highway, (4) between North Kingstown, RI and Warwick, RI, from North Kingstown over US Hwy 1 to junction RI Hwy 403, then over RI Hwy 403 to junction RI Hwy 4, then over RI Hwy 4 to Warwick, and return over the same route, serving Wickford, RI over RI Hwy 102 and US Hwy 1–A, and Quonset Point, RI over Quonset Access Road as off-route points, (5) between New Haven, CT and Westerly, RI, from New Haven over city streets to Interstate Hwy 95, then over Interstate Hwy 95 to junction US Hwy 1, then over US Hwy 1 to Westerly, and return over the same route, serving Madison, CT over US Hwy 1 and CT Hwy 79, Clinton, CT over CT Hwy 81, Old Saybrook, CT over US Hwy 1, and Stonington, CT over US Hwy 1–A as off-route points, (6) between Pawcatuck, CT and Providence, RI, from Pawcatuck over CT Hwy 2 to junction US Hwy 1, then over US Hwy 1 to junction RI Hwy 3, then over RI Hwy 3 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction RI Hwy 10, ten over RI Hwy 10 to Providence, and return over the same route, and (7) serving in routes (1) through (6) above all intermediate points.

Note.—(1) Applicant seeks to provide regular route service in interstate and foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

(2) Applicant also seeks authority in MC–143439 Sub 3(A) published in this same issue.

(3) Applicant intends to cancel No. MC–143439 Sub 2 issued January 5, 1981.

MC 144208 (Sub-9) filed June 13, 1983. Applicant: ART NORDANG TRUCKING, INC., P.O. Box 508, Methow, WA 98834. Representative: Gregory Nordang (same address as applicant), (509) 663–2665. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AK, AZ, CA, CO, ID, KS, MT, ND, NM, NE, NV, OK, OR, SD, TX, UT, WA and WY.

MC 156499 (Sub-1) filed June 28, 1983. Applicant: CIRCLE C TRUCKING, INC., P.O. Box 865, Grand Island, NE 68802. Representative: Robert D. Eklund, 175 W. Apple Avenue, Muskegon, MI 49443, (616) 722–1621. Transporting *building materials, furniture and food and related products*, between points in MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158048 (Sub-1) filed June 29, 1983. Applicant: PIIPPO BROTHERS, INC., Box 265, Mackinac Trail, Rudyard, MI 49780. Representative: Paul M. Ross, 3104 S. Cedar St., Lansing, MI 48910, 517–394–4220. 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 158078 (Sub-1) filed June 23, 1983. Applicant: BOB LOTT, d.b.a., BOB LOTT & SONS TRUCKING, P.O. Box 24, Newdale, ID 83436. Representative: Reed L. Sherar, 242 Cervantes, Lake Oswego, OR 97034, 503–636–5220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, CO, ID, KS, MT, NE, NM, NV, OK, OR, SD, TX, UT, WA and WY.

[FR Doc. 83-19220 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decision; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority

is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, at (202) 275-7289.

Volume No. OP5-339

Decided: July 8, 1983.

By the Commission, Review Board Members Joyce, Dowell, and Carleton.

MC 32068 (Sub-3X), filed June 16, 1983. Applicant: COMMERCIAL WAREHOUSE CO., 3501 North Santa Fe, P.O. Box 26687, Oklahoma City, OK 73126. Representative: Donald W. Crabtree (same address as applicant), 405-525-3501. Sub 2 certificate: eliminate the restriction "shipments originating at or destined to Oklahoma City."

Volume No. OP5-346

Decided: July 11, 1983.

By the Commission, Review Board Members Krock, Parker, and Joyce.

MC 49368 (Sub-119)X, Filed June 30, 1983. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, MI 48013. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013, (313) 645-9600. Sub-117F permit: Broaden from "motor vehicles, in initial and secondary movements, in truckaway and driveaway sevice", to "transportation equipment".

[FR Doc. 83-19216 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[OP4F-438]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek 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. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: July 12, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[No. MC-F-15332]

Hall Trucking, Inc.—Purchase Exemption—Petercliffe, Ltd. (Curtis B. Danning, Trustee-In-Bankruptcy)

Hall Trucking, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Petercliffe, Ltd. set forth in Certificate No. MC-144957 (Sub-Nos. 11F, 12, 13X (along with the underlying authority in Sub-Nos. 3, 7F, 8 and 9F) and 14, authorizing the irregular route transportation of (a) general commodities (except classes A and B explosives), (1) between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in DE, IN, KY, ME, MI, NJ, OH, RI, and VT; (2) Between points in KS, MO, TN, KY, IL, WI, MI, IN, OH, WV, VA, MD, DE, NJ, PA, NY, CT, RI, MA, VT, NH, ME, and DC; (3) between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in CT, FL, GA, IL, MA, MD, MO, NC, NJ, NY, PA, SC, TN, WI, and points in Johnson and Leavenworth Counties, KS; (4) between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in AL, AR, MS, VA, WV, and DC; (5) between points in AZ, CA, NV, and UT; and (6) between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in NE, IA, CO, MN, and KS; (b) general commodities, between points in LA, OK, NM, and TX, on the one hand, and, on the other, points in AZ, CA, CT, FL, GA, IL, IN, KS, KY, MD, MA, MI, MO, NV, NJ, NY, NC, OH, PA, SC, TN, UT, and WI; and (c) general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in FL and MO. An application for temporary authority has been filed.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioners' representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602

Curtis B. Danning, 1801 Century Park Estate, Suite 1500, Los Angeles, CA 90067.

Comments should refer to No. MC-F-15332.

[FR Doc. 83-19217 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

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-276

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 134743 (Sub-1-2TA), filed July 7, 1983. Applicant: AIRLIN TRUCKING CO., INC., Ft. of Cutters Dock Road, Woodbridge, NJ 07095. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities, in containers,* between the piers in New York Harbor, NY, on the one hand, and, on the other, points in MA, RI, CT, NJ, NY, PA, DE, and MD. Supporting shipper(s): G & R Warehouse Corp., Ft. of Cutters Dock Road, Woodbridge, NJ 07095.

MC 153607 (Sub-1-2TA), filed July 5, 1983. Applicant: KENNETH SHAFFER AND JAMES HENDERSOT, d.b.a. H & S TRUCKING, Box 153, Blairstown, NJ 07825. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *Contract carrier:* irregular routes: *Building materials* from Seymour, IN, Bedford, IN, Crossville, TN, Sylacauga, AL, Pate, GA, Nelson, GA, Quincy, CA, Cemter Rutland, VT, Fairhaven, VT, Baltic, OH and Fairdale, KY, to North Caldwell, NJ, under continuing contract(s) with John J. Curley Stone, Co., Inc. of North Caldwell, NJ. Supporting shipper: John J. Curley Stone, Co., Inc., 21 Bloomfield Ave., North Caldwell, NJ 07006.

MC 146239 (Sub-1-4TA), filed July 5, 1983. Applicant: INTERNATIONAL FOODS TRANSPORT, INC., Clinton Street, P.O. Box 150, Delaware, NJ 07833. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. *General commodities (except Classes A and B explosives, commodities in bulk and household goods)* between points in NJ, NY, PA, CT, RI, MA, VT, NH, ME, and DE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): T. V. News, Inc., 482 Hancock St., Quincy, MA 02169; Total Distribution Services, Inc., 10 North Main Street, W. Hartford, CT.

MC 168668 (Sub-1-1TA), filed July 1, 1983. Applicant: NEW TRAFFIC CONCEPTS, INC., 524 Lowell Street, Lexington, MA 02173. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *General commodities (except Classes A & B explosives and used household goods)* between points in CT, ME, MA, NH, RI, VT. Supporting shipper(s): There are six statements of support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 168494 (Sub-1-1TA), filed July 1, 1983. Applicant: ROYAL STAGES, INC., 108 Clark Road, Box 94, Naugatuck, CT 06770. Representative: Roger D. Allaire (same as applicant). *Passengers and their baggage in charter and special operations* from Fairfield, New Haven, Litchfield, Hartford and Middlesex counties, CT, to points in ME, NH, VT, MA, RI, NY, NJ, PA, DE, MD, DC and VA, and return. Support: There are five statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

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 124333 (Sub-II-15TA), filed June 27, 1983. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Joseph F. Fogarty (same address as applicant). Contract, irregular: *Petroleum and petroleum products, in bulk, in tank vehicles,* between points in PA, NJ, DE, VA, WV and NC. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sealand Ltd., P.O. Box 10532, Wilmington, DE 19720.

MC 168989 (Sub-II-1TA), filed June 30, 1983. Applicant: CROSS COUNTRY DISTRIBUTORS, INC., Route 3, Box 87, Chase City, VA 23924. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235. Contract, irregular: *(1) Furniture and related furniture items,* Between Chase City and Lawrenceville, VA, on the one hand, and, on the other, points in TX; Oklahoma City, OK; Atlanta, GA; Fayetteville, Little Rock, and Texarkana, AR, under continuing contract(s) with Butler Lumber Company, Inc., Chase City, VA, and: *(2) Furniture, case goods, and related furniture articles,* between Atlanta, GA; Fort Worth, TX; and Richmond, VA, on the one hand, and, on the other, points in GA, LA, OK, and TX; and Kensington, MD and Washington, D.C., under continuing contract(s) with Causal Concepts, Inc., Fort Worth, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Butler Lumber Company, Inc., P.O. Box 97, Chase City, VA 23924; Causal Concepts, Inc., 2413 E. Loop 820 N., Fort Worth, TX 76118.

MC 168930 (Sub-II-1TA), filed June 28, 1983. Applicant: INTERMODAL FREIGHT AGENCIES, INC., 2810 Cofer Road, Richmond, VA 23224. Representative: Calvin F. Major, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220. *General commodities,* (except Class A and B explosives, household goods and commodities in bulk) between points in WI, IL, IN, TN, MS, LS, AL, FL, GA, SC, NC, VA, KY, WV, OH, MD, MI, PA, NY, NJ, DL, CT, MA, ME, VT, and RI. SUPPORTING SHIPPERS: There are five (5) statements in support attached to this application which may be examined at the Phila. Regional Office.

MC 168941 (Sub-II-1TA), filed June 28, 1983. Applicant: N & C KAHLIG, INC., 5609 Fleetfoot Road, Celina, OH 45822. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. Contract irregular: food and food products between points in OH, IN, MI, WI, IL, MN, IA, MO, AR, LA, TX, OK, KS, NE, SD, ND, MT, WY, CO, NM, AZ, UT, ID, NV, CA, OR and WA, under continuing contract(s) with: Loma Linda Foods, Box 388, Mt. Vernon, OH 43050 for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Loma Linda Foods, Box 388, Mt. Vernon, OH 43050

MC 107012 (Sub-II-321TA), filed June 28, 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 Moore Business Forms, Inc., of Glenview, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Moore Business Forms, Inc., 1205 Milwaukee, Glenview, IL 60025.

MC 107012 (Sub-II-322TA), filed June 28, 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) Toshiba Medical Systems of Tustin, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Toshiba Medical Systems, 2441 Michelle Drive Tustin, CA 92680.

MC 107012 (Sub-II-323TA), filed June 30, 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 MarkHon Industries of Wabash, IN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper:

MarkHon Industries Inc., 200 Bond St., Wabash, IN 46992.

MC 107012 (Sub-II-324TA), filed June 30, 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) Ampex Corporation of Redwood City, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ampex Corporation, 401 Broadsay, Redwood City, CA 94063.

MC 107012 (Sub-II-325TA), filed June 30, 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) Southern Pacific Communications Co. of Burlingame, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Southern Pacific Communications Co., P.O. Box 974, Burlingame, CA 94010.

MC 168109 (Sub-II-1TA), filed June 28, 1983. Applicant: O.A.T. ENTERPRISES, INC., P.O. Box 104, Bensalem, PA 19020. Representative: Lewis Kates, 2900 PSFS Bldg., 12 S. 12th St., Philadelphia, PA 19107. *General commodities, (except Classes A & B explosives, household goods as defined by the Commission)* between all points in the U.S. (except AK & HI), for 270 days. Supporting shipper(s) Pacific Wood Products, P.O. Box 4096, Carson, CA 90749; Homosote Corp., Ewing Township, NJ; Athena Mason Supply, Clifton, NJ; Mid-State Lumber Corp., 200 Industrial Parkway, Branchburg, NJ.

MC 168869 (Sub-II-1TA), filed June 24, 1983. Applicant: PCC REFRIGERATED EXPRESS, INC., 5705 State Route 204 NE, Mount Perry, OH 43760. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. *Pizza Pie Products* from Mount Perry, OH to points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Perry County Cheese Co., Inc., 5705 State Route 204 NE, Mount Perry, OH 43760.

MC 147370 (Sub-II-8TA), filed June 28, 1983. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 South 16th St., Philadelphia, PA 19102. *Rocket motors, rocket fuel, Class B explosives, chemicals and related products, and aerospace craft and equipment* between Elkton, MD, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Department of Defense, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 121507 (Sub-2-2TA), filed July 1, 1983. Applicant: PERISHABLE DELIVERIES, INC., 1520 Beason St., Baltimore, MD 21230. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Foodstuffs and related products,* serving points in Delaware as an off-route point in connection with applicant's regular route authorities at MC-121507 (Sub-No. 9X), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Merchants Terminal Corp., 501 N. Kresson St., Baltimore, MD 21224.

MC 110683 (Sub-II-25TA), filed June 24, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, Esquire, 1090 Vermont Avenue NW., Washington, DC 20005. Contract, Irregular: *General commodities, except Class A and B explosives, household goods, and commodities in bulk,* between all points in the U.S., (except AK and HI) under contract with Heck's, Inc. Shipper: Heck's, Inc., P.O. Box 158, Nitro, WV 25143.

MC 168186 (Sub-II-1TA), filed June 28, 1983. Applicant: D.W. HUTCHENS CO., d.b.a. SPECIALIZED PARCEL DELIVERY SERVICE, P.O. Box 163, Scranton, PA 18501. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Machinery and related products,* between Lackawanna County, PA, on the one hand, and, on the other, points in ME, MA, CT, NY, NJ, OH and NH. An underlying ETA seeks 120 days authority. Supporting shipper: Beloit Manhatten, Inc., P.O. Box 157, Clarks Summit, PA 18411.

MC 168929 (Sub-II-1TA), filed June 28, 1983. Applicant: UNITED STATES TRUCKING, INC., R.D. #2, Box 259A, Acme, PA 15610. Representative: Ernest A. Jones Jr., P.O. Box 4168, Cherry Hill NJ 08034. *General Commodities, (Except class A and B explosives, commodities in bulk, household goods, and articles of unusual and excessive value),* between points in AL, AR, CA, CT, DE, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI, and DC. Supporting shippers: There are 10 statements in support attached to this application which may be examined at the Phila. Regional office.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 113751 (Sub-No. 4-19TA), filed July 1, 1983. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia St, Waupaca, WI 54981. Representative: James A. Spiegel, 6333 Odana Road, Madison, WI 53719. *Contract:* irregular; *contract and institutional furniture* between points in the United States (except AK and HI). Restricted to transportation performed under continuing contract(s) with Krueger, Inc., Krueger Metal Products of Mississippi, Inc., and Architectural Fibreglass, Div Krueger, Inc. Supporting Shippers: Krueger, Inc., Krueger Metal Products of Mississippi, Inc., and Architectural Fibreglass, Div. Krueger, Inc., Box 8100, Green Bay, WI 54308.

MC 123640 (Sub-4-4TA), filed July 1, 1983. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Ave, Fort Wayne, IN 46803. Representative: Irving Klein, Esq., Garden City Law Center, 1205 Franklin Ave, Suite 7, Garden City, NY 11530. *Contract* irregular *metal cabinets, chests and boxes, and materials and supplies used in the manufacture thereof* between points and places in the U.S. (except AK and HI). Supporting shipper Kennedy Manufacturing Co., Van Wert, OH.

MC 123978 (Sub-4-2TA), filed July 1, 1983. Applicant: RICHEY & STEWART, INC., P.O. Box 235, Scottsburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract irregular: Plastic products,* from Scottsburg, IN to St. Clair, MI, Cincinnati, OH, Louisville, KY and Nashville, TN under continuing contracts with Scottsburg Plastics, Inc. Supporting Shipper: Scottsburg Plastics, Inc., Scottsburg, IN 47170.

MC 140942 (Sub-4-4TA), filed June 29, 1983. Applicant: CLOVERDALE TRANSPORTATION COMPANY, Box 578, Manan, ND 58554. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. *Such commodities as dealt in by wholesale, retail and chain grocery and food business houses, meat, meat products, meat by-products and articles distributed by meat packinghouses* (except in bulk) between points in ND, SD, IA, NE, MN and WI, on the one hand, and, on the other, points in the U.S. (except HI). ETA seeks 120-day authority. Supporting shippers: There are seven (7).

MC 149145 (Sub-4–2TA), filed July 1, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Thomas E. Vandenberg, P.O. Box 2298, Green Bay, WI 54306. *Contract Irregular: General commodities* (except Classes A & B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Montgomery Ward and Company, Inc., Chicago, IL. Supporting shipper: Montgomery Ward and Company, Inc., One Montgomery Ward Plaza, Chicago, IL 60671.

MC 156000 (Sub-4–4TA), filed June 29, 1983. Applicant: FLOR-DRI SUPPLY COMPANY, INC., 4629 West Fort St., Detroit, MI 48209. Representative: Ralls & Latterman, P.C., 118 West Ottawa, Suite B, Lansing, MI 48933. *General commodities,* (except household goods and Classes A and B Explosives), between points in the U.S. (except AK and HI). There are 4 supporting shippers.

MC 159260 (Sub-4–3TA), filed June 30, 1983. Applicant: MINORITY TRANSPORT INC., 10500 Southern Ave., Dearborn, MI 48126. Representative: ELIJAH MILLER, 10500 Southern Ave., Dearborn, MI 48126. Common; irregular: *General commodities,* excluding Classes A & B Explosives and Household Goods. Between points in the Contiguous U.S. There are 5 supporting shippers.

MC 166790 (Sub-4–2TA), filed June 30, 1983. Applicant: BOOTS TRANSPORT, INC., 10 South Bridge St., Markesan, WI 53946. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Meat and meat products* between Minong, WI, on the one hand, and, on the other hand, points in IL, IA, KS, MN, MO and NE. Underlying ETA seeks 120 days authority. Supporting shipper: Link Industries, Inc., P.O. Box 397, Minong, WI 54859.

MC 166964 (Sub-4–1TA), filed June 29, 1983. Applicant: HENRY AND DELBERT NIEUWBOER, d.b.a. NIEUWBOER TRUCKING, P.O. BOX 63—MAIN STREET, KENNETH, MN 56147. Representative: DELBERT NIEUWBOER (SAME ADDRESS AS APPLICANT), (507) 283–2914. (1) Fertilizer and (2) cement between points in IA, MN, NE and SD. Supporting shipper(s): There are 6 supporting shippers.

MC 168972 (Sub-4–1TA), filed June 29, 1983. Applicant: GREEN COUNTY HAY TRANSPORT, INC., 1308 16½ St., Monroe, WI 53566. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Plastic pipe and fittings, and materials, equipment and supplies* used or useful in the manufacture, installation or distribution of plastic pipe and fittings, between Dane County, WI on the one hand, and, on the other hand, points in IL, IA, MN and MO. Underlying ETA seeks 120 days authority. Supporting shipper: LCP Chemicals & Plastics, Inc., Raritan Plaza II, Raritan Center, Edison, NJ 08338.

MC 169024 (Sub-4–1TA), filed July 1, 1983. Applicant: OVER-HAULERS TRUCKING, INC., 22500 Telegraph Road, Southfield, MI 48034. Representative: Eugene C. Ewald, 100 W. Long Lake Road—Suite 102, Bloomfield Hills, MI 48013. Contract Irregular: *Seats for public conveyances and parts thereof* between ports of entry on the International Boundary line between the U.S. and Canada in MI, on the one hand, and, on the other, points in MI under continuing contract(s) with Lear Seigler, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Lear Siegler, Inc., 4600 Nancy Avenue, Detroit, MI 48212.

MC 169025 (Sub-4–1TA), filed July 1, 1983. Applicant: ORLAB L. PETERSON, d.b.a. RACINE MOTORCYCLE TRANSPORT, 2800 Mount Pleasant Avenue, Racine, WI 53404. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Such commodities as are dealt in by dealers of motorcycles, all terrain vehicles, lawn mowers and generators,* between points in the Chicago, IL, Commercial Zone, on the one hand, and, on the other, points in Kenosha, Racine and Rock Counties, WI. Supporting shippers: Ace Honda, 5128 6th Ave., Kenosha, WI 53140, Honda/Suzuki Farm, 2920 Wisconsin St., County Hwy. H, Sturtevant, WI 53177, Mike's Suzuki Ranch, 3230 Hwy, 51 South, Janesville, WI 53546.

MC 169026 (Sub-4–1TA), filed July 1, 1983. Applicant: BILAL'S CHARTER BUS SERVICE, 8911 South Hermitage St., Chicago, IL 60620. Representative: Dartaniyal Pasha Bilal (same address as applicant), (312) 445–0475). *Passengers in charter and special operations,* between points in the U.S. (Excluding AK and HI.) Supporting shippers: Wali Akbar Muhammad, Editor, American Muslim Journal Address: 78101 South Cottage Grove Ave., City, State: & ZIP: Chicago, IL 60619.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5–29TA), filed July 5, 1983. Applicant: ATLAS VAN LINES, INC., P.O. Box 509, Evansville, IN 47703. Representative: Michael L. Harvey, same as above. Contract, Irregular; *Household goods, exhibits and displays, graphic copy systems and devices and materials and supplies used in the manufacture, sale and maintenance of such systems and devices* between points in the U.S. (exclusive of AK and HI). Supporting shipper: Seiko Instruments U.S.A., Santa Clara, CA.

MC 112822 (Sub-5–14TA), filed July 5, 1983. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, Cushing, OK 74023. Representative: Steven B. Cochran (same address as above). Contract, irregular: *general commodities (except Class A & B explosives and household goods),* between points in the U.S. (except AK and HI) under a continuing contract(s) with Phillips Petroleum Company, Bartlesville, OK.

MC 119211 (Sub-5–2TA), filed July 5, 1983. Applicant: MAU TRUCKING, INC., 90 Jacob's Addition, Ida Grove, IA 51445. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Food and related products,* between Crete, Omaha, and Lincoln, NE, on the one hand, and, on the other, points in the U.S. (except AK and Hi). Supporting Shipper: Farmland Foods, Inc., Denison, IA.

MC 121794 (Sub-5–3TA), filed July 5, 1983. Applicant: JAMES WILKETT d.b.a. WILKETT TRUCKING Co., P.O. Box 466, Stigler, OK 74462. Representative: John J. McMackin, Jr., 1101 Connecticut Ave., NW, Suite 500 Washington, DC 20036. Contract, irregular: *Petroleum Coke* between points in OK and TX under continuing contract with Koch Carbon, Inc., of Wichita, KS.

MC 134328 (Sub-5–4TA), filed July 5, 1983. Applicant: D&G TRUCKING COMPANY, INC., P.O. Box 1004 Wynne, AR 72396. Representative: Don Garrison, Esq., 416 Hay Drive-SW–F1, Decatur, AL 35603. Contract, irregular: *carpets, rugs, piece goods, sheets, pillow cases, towels wash cloths, furniture, draperies and bedspreads* between points in AR, CA, GA, IL, MS, NC, NJ, NY, PA, SC, TN, TX and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Burlington Industries, Inc., Burlington, NC.

MC 151339 (Sub-5–5TA), filed July 5, 1983. Applicant: LOCK TRUCK LEASING, INC., P.O. Box 274, Irving, TX 75060. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Film Paper, Chemicals and Related Articles* between Irving, TX on one hand, and, on the other, points in CO and NM. Restricted to shipments

originating or destined to the facilities of El Dupont Photo Products Department. Supporting Shipper: E I Dupont Photo Products Department, Irving, TX.

MC 154872 (Sub-5–4TA), filed July 5, 1983. Applicant: SOLAR TRANSPORT, INC., P.O. Box 537, Hampton, IA 50441. Representative: William L. Fairbank, 1300 United Central Bank Building, Des Moines, IA 50309. *Non-alcoholic beverages*, between Mason City, IA, and Grand Island, NE. Supporting shipper: Royal Crown of North Iowa, Inc., Mason City, IA.

MC 163969 (Sub-5–2TA), filed July 5, 1983. Applicant: MANHATTAN TRANSIT, INC., 217 McCall Rd., Manhattan, KS 66502. Representative: Charles A. Briscoe, 1206 W. Tenth, Topeka, KS 66604. *Passengers in charter and special operations* between KS on the one hand, and, on the other, pts in the U.S. (ex HI). Supporting Shipper: Track Tours, Omaha, NE; International Tours of Manhattan, Manhattan, KS.

MC 168178 (Sub-5–1TA), filed July 5, 1983. Applicant: DALE NEWMAN & JOAN NEWMAN, d.b.a. D.J.N. TRUCKING, 304 Park Ave., Odebolt, IA 51458. Representative: Dale Newman (same as above). *Food and other edible products and by-products, materials, equipment and supplies used in the manufacture, sale or distribution of such commodities (except alcoholic beverages and drugs)* between points in Sac and Crawford Counties IA, Cincinnati, OH, Atlanta, GA, San Antonio, TX and Los Angeles, CA on the one hand, and, on the other, points in the U.S. Supporting Shipper: Dwied International, San Antonio, TX.

MC 168906 (Sub-5–2TA), filed July 5, 1983. Applicant: FAMILY TRADITION TRANSPORTATION COMPANY, INC., P.O. Box 138, Archie, MO 64725. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. (1) *Lumber, plywood, wood products and pallets*, between the Commercial Zones of Amity, Hatfield, Hot Springs and Plumerville, AR, and New Brighton, MN, on the one hand, and, on the other, points in CO, IL, IA, KS, LA, MI, MN, MO, NE, NM, OK, SD, TX andWI; and (2) *Such Commodities dealt in, sold or used by lumber and hardware establishments*, between points in AL, AZ, AR, CA, GA, ID, IN, LA, OK, MI, MN, MS, MT, NM, NC, ND, OH, OR, SC, SD, TX, UT, WA, and WI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, LA, MO, MS, NE, NM, OH, OK, SD, TN, TX, UT and WI. Supporting shippers: 6.

MC 169021 (Sub-5–1TA), filed July 5, 1983. Applicant: SPEEDY DELIVERY SERVICE, INC., 4014½ N. Barnes, Oklahoma City, OK 73112. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. Contract irregular: *Communications equipment, and related materials and supplies*, under continuing contract(s) with Western Electric Company, Incorporated of New York, NY, between points in OK. Supporting shipper: Western Electric Company, Inc., Ballwin, MO.

MC 169022 (Sub-5–1TA), filed July 5, 1983. Applicant: K K D ENTERPRISES, INC., 401 Fifth Avenue, P.O. Box 83, Clarence, IA 52216. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Avenue, Des Plaines, IL 60016. *Metal Products*, (1) Form Chicago, IL, Commercial Zone, to points in IA, MI, MN, MO, NE, and OH; (2) From Minneapolis/St. Paul, MN, Commercial Zone and Wilton, IA, to points in the Commercial Zones of Chicago, IL; Cincinnati, OH; Detroit, MI; and Milwaukee, WI; (3) Form Monroe, MI, to points in Commercial Zone of Chicago, IL. Supporting shipper: Central Steel & Wire Company, Chicago, IL.

MC 79658 (Sub-5–30TA), filed July 6, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47703. Representative: Michael L. Harvey, same as above. Contract, irregular, *household goods* between points in the U.S. (exclusive of AK and HI). Supporting shipper: Pitney Bowes, Inc., Stamford, CT and its subsidiaries.

MC 79658 (Sub-5–31TA), filed July 7, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47703. Representative: Michael L. Harvey, same as above. Contract, irregular, *household goods* and *office furniture and fixtures* between points in the U.S. (exclusive of AK and HI). Supporting Shipper: C. S. X. Corporation, Richmond, VA, and subsidiaries.

MC 79658 (Sub-5–32TA), Filed July 7, 1983. Applicant: ATLAS VAN LINES, INC., P.O. Box 509, Evansville, IN 47703. Representative: Michael L. Harvey, same as above. Contract, irregular, *interactive graphics systems used for the computer aided design and manufacturing markets and related materials, parts and supplies for their manufacture, repair and installation* between Milpitas and Sunnyvale, CA on the one hand, and, on the other, points in the U.S. (exclusive of AK and HI). Supporting Shipper: Calma Company, Milpitas, CA.

MC 11732 (Sub-5–4TA), filed July 8, 1983. Applicant: BILL BRUTON d.b.a. TRI-WESTERN EXPRESS #8 WestWood Lane, Little Rock, AR 72204. Representative: Bill Bruton (same as above). *Paint and paint sundries, material handling equipment, steel shelving and racks, forklifts and parts, tote trays and plastic containers, farm equipment and accessories, bakery goods and related items, corrugated boxes and shipping containers, plumbing supplies* between points in AR, TX, LA, MS, TN, and AL. Supporting Shipper(s): 8.

MC 133655 (Sub-5–14TA), filed July 7, 1983. Applicant: TRANS–NATIONAL TRUCK, INC., P.O. Box 809072, Dallas, TX 75380–9072. Representative: Thomas E. Vandenberg, P.O. Box 2298, Green Bay, WI 54306. Contract, irregular, *general commodities (except Classes A and B explosives, commodities in bulk, and household goods as defined by the Commission)*, between points in the U.S. (except AK and HI), under continuing contract(s) with Montgomery Ward and Company, Inc., Chicago, IL.

MC 168933 (Sub-5-1TA), filed July 6, 1983. Applicant: LILCO, INC., Rt. 1, Lebanon, MO 65536. Representative: Dale Lillard (same as above). Contract, irregular, general commodities except class A &B explosives, household goods, and commodities in bulk, between points in the U.S. (except AK and HI) under continuing contract(s) with Bank Building & Equipment Corporation of America and its subsidiaries of St. Louis, MO. Supporting shipper: Bank Building & Equipment Corporation of America, St. Louis, MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19215 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30204]

Rail Carriers; East Tennessee Railway Corporation—Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission under 49 U.S.C. 10505 exempts (a) the acquisition and operation by East Tennessee Railway Corporation (East Tennessee) of 11.2 miles of rail line located in Carter and Washington Counties, TN from 49 U.S.C. 10901, and (b) the issuance by East Tennessee of a maximum of $200,000 in securities from 49 U.S.C. 11301.

DATES: This exemption will be effective on July 18, 1983. Petitions to reopen this proceeding must be filed by August 5, 1983.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423
(2) Petitioner's representative: Kelvin J. Dowd, 1224 Seventeenth Street NW., Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: This exemption is related to Finance Docket No. 30213, Green Bay Packaging, Inc.—Control Exemption—East Tennessee Railway Corporation. The notice of that exemption is also published in the Federal Register.

Additional information is contained in the Commission's decision. To purchase a copy of this 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: July 6, 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. 83-19209 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30213]

Rail Carriers; Green Bay Packaging, Inc.—Control Exemption—East Tennessee Railway Corporation; Exemption

Green Bay Packaging, Inc. (GBP), a holding company controlling Little Rock & Western Railway Corporation (LRW), seeks to acquire control of East Tennessee Railway Corporation (East Tennessee) through ownership of stock. East Tennessee will acquire the rail line and related assets of a class III railroad, East Tennessee and Western North Carolina Railroad (ETWNC) on July 31, 1983. [1] It will continue operations over the acquired line between Johnson City and Elizabethton, TN. LRW, also a class III railroad, operates between Perry and Little Rock, AR. GBP has given notice that the proposed transaction is exempt under 49 CFR 1180.2(d)(2).

GBP's acquisition of control will not result in connection of railroad lines within its corporate family, is not part of a series of transactions that would connect any railroad lines in its corporate family, and does not involve a class I railroad. Therefore, the transaction is exempt under 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any railroad employee affected by this transaction will be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Decided: July 6, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19210 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

[1] The Commission has approved East Tennessee's request for exemption of the acquisition and issuance of securities to GBP and another prospective shareholder in Finance Docket No. 30204 notice of which is published also in the Federal Register.

[Finance Docket No. 30183]

Rail Carriers; New York Cross Harbor Railroad Terminal Corp.—Exemption for Operation and Issuance of Securities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts: (1) the New York Cross Harbor Railroad Terminal Corp. operation of rail facilities in the New York, NY area from 49 U.S.C. 10901, and (2) NYCH's issuance of securities associated with the terminal operations form 49 U.S.C. 11301. A related acquisition of rail property by Northbrook Leasing is exempted from 49 U.S.C. Subtitle IV.

DATES: This exemption is effective on July 18, 1983. Petitions to reopen must be filed by August 8, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30183 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Louis H. Shereff, 19 West 44th Street, New York, NY 10036.

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, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: July 8, 1983.

By the Commission, Division 1. Commissioners Andre, 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.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19211 Filed 7-15-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Survey of Visitors to Selected Federal Facilities in the National Capital Region

AGENCY: National Capital Planning Commission.

ACTION: SF 83 and supporting statements submitted for OMB review.

SUMMARY: As required under provisions of the Paperwork Reduction Act of 1980 and 5 CFR 1320, the Commission has submitted an application for OMB approval of a survey of visitors to selected Federal facilities in the National Capital Region. Information to be obtained from the survey will be used by the Commission to prepare and then adopt a Visitors and Tourists element of the Comprehensive Plan for the National Capital, thereby fulfilling, in part, one of the Commission's statutory responsibilities of comprehensive planning set forth in the National Capital Planning Act of 1952. A field pre-test was conducted. The survey will consist of 1,250 intercept visitor interviews at 50 selected Federal facilities in the National Capital Region.

DATE: Comments must be received by August 17, 1983 and should be submitted to:

OMB Reviewer: Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-4814; and

Robert N. Gold, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576, Telephone (202) 724-0189.

Copies of SF 83 and Supporting Statements submitted for OMB approval and other information may be obtained

from Robert N. Gold, address and telephone above.

Daniel H. Shear,

Secretary.

July 12, 1983.

[FR Doc. 83-19362 Filed 7-15-83; 8:45 am]

BILLING CODE 7522-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Hunanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

1. Date: August 1, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in American Literature to 1900, American Studies, Modern Theatre, and Film, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

2. Date: August 1 and 2, 1983.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Colleges and Universities, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1983.

3. Date: August 2, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Classical and European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

4. Date: August 5, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for Independent Study and Research applications in Art and Architecture, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

5. Date: August 5, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for Independent Study and Research applications in Comparative Literature Literary Criticism, Theatre, and Film, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

6. Date: August 8 and 9, 1983.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Colleges and Universities, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1983.

7. Date: August 9, 1983.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review Fellowships for Independent Study and Research applications in Anthropology, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

8. Date: August 9, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

9. Date: August 10, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Classical and Modern Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

10. Date: August 11, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for Summer Stipends applications in European History to 1815, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

11. Date: August 11, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for Independent Study and Research applications in Romance Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

12. Date: August 11, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Music, Art, Architecture, and Dance, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

13. Date: August 15, 1983.
Time: 9:00 a.m. to 4:30 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Public Libraries, submitted to the Office of Challenge Grants, for projects beginning after January 1, 1984.

14. Date: August 15, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: M07, East.
Program: This meeting will review Fellowships for Independent Study Research applications in English Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

15. Date: August 15, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Latin American and Non-Western History and Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

16. Date: August 16, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for Independent Study and Research applications in Education, Law, Political Science, Sociology and Psychology, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

17. Date: August 16, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in English Literature to 1900, Linguistics, Composition and Rhetoric, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

18. Date: August 18, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for Independent Study and Research applications in Classical, Germanic, Slavic & Other Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

19. Date: August 18, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

20. Date: August 19, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in American History to the 20th Century, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

21. Date: August 22, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Anthropology, Sociology, Economics, and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

22. Date: August 22, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for Independent Study and Research applications in Asian, Latin American, & African History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

23. Date: August 22 and 23, 1983.

Time: 9:00 a.m. to 4:30 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Universities and University Presses, submitted to the Office of Challenge Grants, for projects beginning January 1, 1984.

24. Date: August 24, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1984.

25. Date: August 29, 1983.
Time: 9:00 a.m. to 4:30 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Public Media Stations and Nonprofit Media Production Organizations, submitted to the Office of Challenge Grants, for projects beginning after January 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, date January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; or call (202) 786–0322.

Stephen J. McCleary,
Advisory Committee, Management Officer.

[FR Doc. 83-19284 Filed 7-15-83; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

John B. Martin, Regional Administrator, Region V
James M. Taylor, Director, Division of Quality Assurance, Safeguards and Inspection Programs, Office of Inspection and Enforcement

These appointments are to three year terms, and are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

In addition to the above appointments, the following members are continuing on the PRB:

Guy A. Arlotto, Director, Division of Engineering Technology, Office of Nuclear Regulatory Research
Edson G. Case, Deputy Director, Office of Nuclear Reactor Regulation
Guy H. Cunningham, Executive Legal Director
John G. Davis, Director, Office of Nuclear Material Safety and Safeguards
Richard C. DeYound, Director, Office of Inspection and Enforcement
Clemens J. Heltemes, Director, Office of Analysis and Evaluation of Operational Data
John C. Hoyle, Assistant Secretary of the Commission
James G. Keppler, Regional Administrator, Region III
Martin G. Malsch, Deputy General Counsel, Office of the General Counsel
Patricia G. Norry, Director, Office of Administration
Ralph G. Page, Chief, Uranium Fuel Licensing Branch, Office of Nuclear Material Safety and Safeguards
Denwood F. Ross, Deputy Director, Office of Nuclear Regulatory Research
Hugh L. Thompson, Director, Division of Human Factors Safety, Office of Nuclear Reactor Regulation.

EFFECTIVE DATE: July 13, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia G. Norry, Chair Performance Review Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555, 301–492–7335.

Dated at Bethesda, Maryland, this 12th day of July 1983.

For the Nuclear Regulatory Commission.
Jack W. Roe *Chairman,*
Executive Resources Board.

[FR Doc. 83-19342 Filed 7-15-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket NO. 50–409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) is the holder of Provisional Operating License No. DPR–45 which authorizes operation of La Crosse Boiling Water Reactor (LACBWR) (the facility) located in Vernon County, Wisconsin. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R, which became effective on February 17, 1981, requires that nuclear power plants licensed to operate prior to January 1, 1979 must satisfy the requirements of Sections III.G, III.J, and III.O of Appendix R. However, open items that have not been resolved by staff fire protection safety evaluation reports issued prior to February 17, 1981 must be resolved according to the applicable sections of Appendix R, or, for items not covered by Appendix R, according to Appendix A to Branch Technical Position BTP APCSB 9.5–1.

On March 19, 1981, DPC submitted information to resolve twelve open items from past fire protection safety evaluations for the La Crosse facility. Four of these items (numbered 3.1.27, 3.2.2, 3.2.3, and 3.2.8; Combined Water Supply) were required to be resolved according to Section III.A of Appendix R, Water Supplies for Fire Suppression Systems. For these items, the licensee requested an exemption from some of the Appendix R requirements for fire protection in the crib house where both diesel fire water pumps are located. This exemption is evaluated in Section III below.

During the staff's review of two other open items (numbered 3.1.20 and 3.2.4 addressed by the March 19, 1981 submittal, it was determined that these items must be resolved according to Appendix R to 10 CFR Part 50. These

items were not in compliance with Appendix R which means that approval would constitute granting an exemption from the requirements of Appendix R. Accordingly, the staff has considered the licensee's commitments to be exemption requests. These exemptions are evaluated in Section III below.

III

Combined Water Supply

Section III.A of Appendix R requires that two separate fire water supplies shall be provided such that failure of one supply will not result in a failure of the other supply and that the use of other water systems for fire protection shall not be incompatible with their functions required for safe plant shutdown. In past SER's, the staff has expressed two concerns about the fire water distribution system at La Crosse. The first was that both diesel fire pumps were vulnerable to damage from a single fire in the crib house. The second was that the high pressure service water system might not be adequate to supply the combined water demand for fire fighting and for safety-related functions under emergency conditions.

The existing fire water distribution system is most vulnerable at the crib house where a single fire has the potential for damaging both diesel pumps. The licensee has proposed to erect a partial-height metal barrier between the pumps. This barrier will prevent radiant heat from a fire from damaging both pumps. The licensee's proposal to install an automatic sprinkler system to protect the pumps will assure that if a fire should occur in the crib house, it will be controlled or extinguished before significant damage occurs. These measures, coupled with the existing fire protection consisting of smoke detectors and portable fire fighting equipment will provide reasonable assurance that at least one diesel pump will remain functional. In the unlikely event that both pumps are damaged or if the capacity of one pump is insufficient to supply fire protection demands during a major fire, the licensee can supply this demand through the interconnection of the nuclear plant's fire main with the fossil plant's water distribution system. The licensee has committed to provide procedures and equipment to manually connect these distribution systems with two 2½ inch hoses, if necessary, due to a fire in the crib house.

By letter dated March 19, 1981, the licensee proposed to modify the diesel fire pump to increase its capacity. The licensee also proposed to utilize the Emergency Service Water Supply System, consisting of up to 4 portable pumps which are rated at 300 GPM each at 150 psi, and can be made operational in 30 minutes if needed during fire emergencies.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration will achieve a level of fire protection equivalent to that provided by the technical requirements of Section III.A of Appendix R to 10 CFR Part 50 and Section C.2 of Appendix A to BTP ASB 9.5–1, and therefore, is acceptable.

Unrated Fire Barrier (SER Item 3.1.20)

Section III.G of Appendix R requires that fire barriers used to separate redundant trains of safe shutdown equipment have a three-hour rating. The concrete block wall with access door between the "A" diesel generator room and the adjoining machine shop is not 3-hour fire rated. It was the staff's concern that a fire in the diesel generator room would propagate beyond the wall and damage safety-related cables and unprotected structural steel in the machine shop. By letter dated February 6, 1980, the licensee indicated that the access door in the wall had been replaced with a 3-hour fire rated door. Calculations were provided that estimated the fire resistance of the wall at 2.3 hours. By letter dated November 24, 1980, we evaluated this information and indicated that, because the licensee's calculations did not consider the nature of the aggregate in the wall, the calculations were unacceptable, and therefore, sufficient justification had not been provided to resolve this issue. By letter dated March 19, 1981, the licensee provided revised calculations, which reflected the expanded slag aggregate of the block, along with additional justification for acceptance of the wall without further modifications.

The combustible material located in the diesel generator room consists of approximately 100 gallons of diesel fuel, located in the day tank. If this fuel spilled and was totally consumed, it would result in a fire which corresponds to a severity on the ASTM E–119 time temperature curve of approximately 1¾ hours. A fire of this magnitude and duration would not be likely because of the presence of an early warning fire detector system and a manually actuated, area wide, fire suppression system. In the event that the fixed fire protection systems were ineffective, the plant fire brigade would be available to begin manual fire suppression efforts with hose streams and/or portable extinguishers within a 15 to 30 minute time period.

Therefore, in consideration of the existing hazard and the available fire protection, it is the staff's conclusion that a potential fire in the "A" diesel generator room would not reach the magnitude to breach the existing concrete block wall and fire door before being extinguished.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration will achieve a level of fire protection equivalent to that provided by Section III.G of Appendix R and Appendix A to BTP APCSB 9.5–1, and therefore, is acceptable.

Exposed Structural Steel (SER Item 3.2.4)

Section III.G of Appendix R requires that structural steel, whose failure could cause the loss of redundant trains of safe-shutdown equipment have a three-our fire rating. The staff's SER indicated that certain structural steel members in the Turbine Building were unprotected. The staff expressed the concern that in the event of a major fire the steel could fail, causing structural collapse which might degrade the safe shutdown capability of the plant.

By letter dated March 19, 1981, the licensee provided the results of a structural analyses which revealed that the majority of the structural steel in the Turbine Building obtains its support from the existing reinforced concrete columns and the pillars which form the turbine pedestals. In addition, the licensee identified the area of concentrated fire load near the turbine lube oil tank and encased the nearest unprotected steel beam with fire proofing having at least a 2-hour rating.

The combustibles in the Turbine Building consist of approximately 4,000 gallons of turbine oil in the turbine oil reservoir and piping; 40 gallons of hydraulic oil for the main steam by-pass valve; approximately 1900 pounds of scattered combustible and cable insulation; and hydrogen for generator cooling. Fire protection consists of ionization-type smoke detectors throughout most of the building, along with portable fire extinguishers and hose stations for manual fire fighting. In addition, the turbine oil fire hazard has been reduced by the installation of curbing and a drain system and by the protection provided by an automatic sprinkler system which covers the turbine oil tank and piping.

For structural collapse to occur, the unprotected steel would have to be

subjected to a fire of significant magnitude and duration. Compensating measures have been taken in the form of an automatic fire suppression system, curbing/draining of turbine oil, and the protection of some structural steel.

Hydrogen cylinders are located outside the plant. Transport lines are normally not under pressure. When refilling occurs, the operation is under continuous observation. The Turbine Building ventilation system would preclude accumulations of hydrogen gas above 2%. This conforms with the guidelines of Section B.2 of Appendix A to BTP ASB 9.5–1. The remaining fire hazard consists of scattered combustibles and cable insulation. Cabling is either IEEE qualified or is coated with a flame retardant. The staff has found that these in-situ combustible plus anticipated transients. If ignited, would not produce a fire of significant magnitude or duration. If a fire should occur, the smoke detection system would provide early warning so that the plant fire brigade could respond and suppress the fire before serious damage occurred.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration will achieve a level of fire protection equivalent to that provided by the tecnical requirements of Section III.G of Appendix R, and therefore, it is acceptable.

IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption requests idenified in Section III above.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated in Bethesda, Maryland, this 12th day of July 1983.

For the Nuclear Regulation Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-19337 Filed 7-15-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

GPU Nuclear Corp.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–73, issued to GPU Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Plant, Unit 2 located in Middletown, Pennsylvania.

The amendment would delete Section 2.E(3) of the facilities operating license in accordance with the licensee's application for amendment dated May 27, 1983.

Section 2.E(3) of the facility's operating license presently requires that suitable tankage that could be used to store waste water from TMI–2 be at an appropriate state of readiness should such storage become necessary. The licensee was also required to continually advise the NRC of tankage identified for that stated purpose. The basis for requiring this tankage was for emergency response should large volumes of waste water, and in particular Reactor Building Sump Water, need to be transferred because of building leakage or system failures. For the reasons discussed below, this requirement is no longer necessary.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether license amendments involve no significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving a no significant hazards consideration is relief granted upon demonstration that the operations restriction is no longer necessary (example iv).

The reasons for deleting Section 2.E(3) of the amendment are as follows: The volume of water in the Containment Sump has been significantly reduced and the concentration of radionuclides has been diminished by processing the water through the Submerged Demineralizer System and by dilution. Furthermore, the licensee since shortly after the accident, has been monitoring the Reactor Building water level daily and since early 1980 has been using a Groundwater Monitoring Program to detect building leaks. Both monitoring programs have shown that no leakage from the containment has taken place.

The licensee has also stated that, in the event of a leak from the Reactor Building to the environment, the peak radionuclide concentrations for major isotopes would be orders of magnitude below the maximum permissible concentrations for these isotopes contained in 10 CFR Part 20. It should further be noted that the present conditions are more conservative than those stated in the Programmatic Environmental Impact Statement. Based on these considerations and the above mentioned criteria, we have made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

By August 17, 1983 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above

date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitoner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishers to intervene. Any person who has filed a petition for leave to intervenor who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union a (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Bernard J. Snyder: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts & Trowbridge, 1800 M St. NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(l)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the State Library of Pennsylvania, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 13th day of July 1983.

For the Nuclear Regulatiory Commission.

Bernard J. Snyder,

Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 83-18338 Filed 7-15-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power and Light Co., Allegheny Electric Coop., Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne, County, Pennsylvania.

The amendment would correct typographical errors in Technical Specification Table 4.11.2.1.2–1, Radioactive Gaseous Waste Sampling and Analysis Program, and in Section 8, Electrical Power Systems. The amendment would also correct nomenclature in Table 4.8.1.1.2–2, Unit 1 and Common Diesel Generator Loading Timers, and add a footnote to Table 3.8.4.1–1 Primary Containment Penetration Conductor Overcurrent Protective Devices, to clarify that each number under the "Circuit Breaker Location" column represents two breakers in series. Additionally, the amendment would delete a non-applicable requirement in Technical Specification 4.7.2.b.1, correct an inconsistency between Technical Specification Table 4.4.6.1.3–1 and 10 CFR 50 Appendix H with regard to the withdrawal schedule associated with the reactor vessel material surveillance program, and change the allowable value for the Reactor Vessel Level–High trip in Technical Specification Table 3.3.9–2 in accordance with the licensee's aplication for an amendment dated May 4, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means

that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning application of these standards by providing examples (48 FR 14871). One of the examples of actions involving no significant hazards considerations relates to license amendments which are administrative in nature in order to achieve consistency throughout the Technical Specifications, to correct errors or to change nomenclature. On this basis, the staff proposes to determine that the changes to the Technical Specification with exception of the change to Table 3.3.9-2 are administrative in nature (to correct editorial and nomenclature errors and achieve consistency with the Technical Specifications and as-built plant conditions) involve no significant hazards considerations. The staff proposes to determine that the change to Technical Specification Table 3.3.9-2 involves no significant hazards consideration on the basis that the change being proposed makes the Technical Specifications consistent with accident analysis performed using an allowable value for the Reactor Vessel Level—High trip recommended by the reactor supplier. The change does not result in a significant hazards consideration because it does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated or (2) create the possibility of a new or different kind of accident from any previously evaluated or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication on this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By August 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of

this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silbert, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 11th day of July 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-19339 Filed 7-15-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on August 3, 1983, Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, August 3, 1983—1:00 p.m. until the conclusion of business

The Subcommittee will meet to review the proposed final rule amending 10 CFR Part 50 that concerns fitness for duty for personnel with unescorted access to protected areas of nuclear power plant.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold disucssions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, David Fischer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 12, 1983

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-19340 Filed 7-15-83 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittee's and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 21, 1983 (48 FR 28369). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agends will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the August 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White), between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Transportation of Radioactive Materials*, July 26, 1983, Washington, DC. The Subcommittee will discuss the Department of Energy's (DOE's) application to the NRC for revisions to the existing operational controls for shipment of plutonium by air by using the Plutonium Air Transportable Model-2 (PAT-2) package. The Subcommittee will also discuss the safety evaluation performed by the NRC Staff on the revisions to the operational controls proposed by the DOE.

**Human Factors*, August 3, 1983, Washington, DC. The Subcommittee will review the proposed final rule amending 10 CFR Part 50 that concerns fitness for duty for personnel with unescorted access to protected areas of nuclear power plants.

Westinghouse Water Reactors, August 10 and 11, 1983, Monroeville, PA. The Subcommittee will discuss the pre-Preliminary Design Approval review of Westinghouse advanced PWR design. This meeting will be closed to the public to protect Westinghouse proprietary information.

**Metal Components*, August 17, 1983, Washington, DC. The Subcommittee will hear reports from industry on the detection and sizing of flaws and repair of intergranular stress corrosion cracking (IGSCC) in large diameter primary piping in BWRs.

**Human Factors*, August 19, 1983, Washington, DC. The Subcommittee will review the status of Emergency Procedure Guidelines and Emergency Operating Procedures.

**Decay Heat Removal Systems*, August 24 and 25, 1983, Washington, DC. On August 24, the Subcommitee will discuss the Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves on the Combustion Engineering power reactor systems. On August 25, the Subcommittee will also discuss two interim milestone reports for Task

Action Plan A–45 concerning the grouping of light water reactors according to decay heat removal capability, and a quantitative screening criteria for decay heat removal systems.

Human Factors, August 30, 1983, Washington, DC. The Subcommittee will review proposed rules and regulatory guides related to Pub. L. 97–425, "Nuclear Waste Policy Act of 1982," Section 306, "Nuclear Regulatory Commission Training Authorization." The rules and regulatory guides relate to the training and qualification of individuals working at nuclear power plants.

Metal Components, Date to be determined (August–September, Tentative), Washington, DC. The Subcommittee will review the NRC position on integrity of steel bolts.

Waste Management, September 8 and 9, 1983, Richland, WA. The Subcommittee will visit the basalt wastes isolation project at the Hanford site and review the site characterization plan for the proposed site.

Extreme External Phenomena, September 14 and 15, 1983, Los Angeles, CA. The Subcommittee will conduct a workshop at which possible approaches to the quantification of seismic design margins would be discussed.

Systematic Evaluation Program, September 20 and 21, 1983, Traverse City, MI. The Subcommittee will discuss with Consumers Power Company the systematic evaluation program for the Big Rock Point Plant and visit the plant site.

Human Factors, Date to be determined (September, Tentative), Washington, DC. The Subcommittee will review the question of what qualification would be desirable for members of a nuclear power plant operating staff.

Metal Components, Date to be determined (October, Tentative), Washington, DC. The Subcommittee will review the NRC position on generic recommendations for steam generator tube integrity and multiple tube ruptures.

Midland Plant Units 1 and 2, Date to be determined (October, Tentative), Washington, DC. The Subcommittee will review Consumers Power Company's plan for an audit of plant quality at Midland Plant Units 1 and 2.

*Qualification Program for Safety-Related Equipment, Date to be determined (October, Tentative), Washington, DC. The Subcommittee will discuss Regulatory Guide 1.89, "Qualification of Electrical Equipment Important to Safety in Nuclear Power Plants."

ACRS Full Committee Meeting

August 4–6, 1983: Items are *tentatively* scheduled.

*A. *Engineering Expertise on Shift*—ACRS comments on a proposed rule establishing degree requirements for shift workers.

*B. *Fitness for Duty*—ACRS comments on a proposed rule concerning fitness for duty of personnel having access to protected areas.

*C. *Safety Goal Evaluation Plan*—ACRS comments on a proposed Safety Goal Evaluation Plan.

*D. *Transportation Accidents*—ACRS comments on a proposed NRC policy for responding to transportation accidents and incidents.

*E. *Transportation of Radioactive Materials*—ACRS comments on the DOE Plutonium Air Transportable Model-package.

*F. *Generic Issues*—Additional ACRS comments on the NRC proposed prioritization of generic issues.

*G. *Institute of Nuclear Power Operations*—Briefing on INPO activities in the areas of construction quality, job and task analyses, and the Nuclear Plant Reliability Data System.

*H. *Meeting with Director, Office of Inspection and Enforcement*—Briefing on activities of the NRC Office of Inspection and Enforcement.

*I. *Construction Quality Assurance*—Briefing on NRC Staff proposed construction quality assurance initiatives.

*J. *Emergency Planning Requirement*—Status report on NRC Staff plans to review emergency planning requirements.

*K. *ACRS Subcommittee Activities*—Discuss activities of the designated ACRS Subcommittee with regard to the B&W integral facility.

*L. *NRC Severe Accident Policy*—Discuss the proposed severe accident policy statement, SECY 82–1B.

*M. *ACRS Activity*—Discuss general scope of ACRS activity.

*N. *Indian Point 2 and 3*—Discuss NRC testimony at Hearings on Indian Point Units 2 and 3.

*O. *Recent Power Reactor Experience*—Briefing on recent events including cracking discovered in main coolant piping at Peach Bottom.

August 31–September 2, 1983—Agenda to be announced.

October 13–15, 1983—Agenda to be announced.

Dated: July 13, 1983.

John C. Hoyle,

Advisory Committee Management Office.

[FR Doc. 83-19341 Filed 7-15-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-537-CP]

Department of Energy, Project Management Corporation, Tennessee Valley Authority, (Clinch River Breeder Reactor Plant); Postponement of Hearing

July 13, 1983.

Please take notice of the postponement of an evidentiary hearing scheduled to commence in this proceeding on Monday, July 18, 1983 in Oak Ridge, Tennessee. The vacation of such hearing is necessitated by a serious emergency illness in the family of a member of the Licensing Board. The hearing will be rescheduled in the near future and notice thereof will be duly published.

It is so Ordered.

Dated at Bethesda, Maryland this 13th day of July, 1983.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 83-19524 Filed 7-15-83; 10:46 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Hearing Notice; and Accident Reports, Safety Recommendations, and Responses; Availability

Notice of Hearing

In connection with its investigation of the accident involving an Air Canada DC–9, of Canadian Registry CF–TLU, at the Greater Cincinnati Airport, Covington, Kentucky, June 2, 1983, the Safety Board will convene a hearing at 9 a.m. (local time) on August 16, 1983, in the House of Stuart Room of the Drawbridge Inn, Fort Mitchell, Kentucky.

Reports Issued

Special Investigation Report—Followup Study of the United States Air Traffic Control System (NTSB/SIR–83/01) (NTIS Order No. PB83–917002).

Highway Accident Report—J. C. Sales, Inc., Tractor-Semitrailer and Calvary Baptist Church Van Collision, State Route 198 at 19th Avenue, near Lemoore, California, October 8, 1982 (NTSB/HAR–83/02) (NTIS Order No. PB83–916202).

Highway Accident Report—Multiple-Vehicle Collisions and Fire, Caldecott Tunnel, near Oakland, California, April 7, 1982 (NTSB/HAR–83/01) (NTIS Order No. PB83–916201).

Aircraft Accident Reports—Brief Format, U.S. Civil and Foreign Aviation, Issue Number 1 of the 1982 Accidents (NTSB/AAB–83/02) (NTIS Order No. PB83–916902).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information

on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to

Aviation—

Federal Aviation Administration: Jul. 1: A–83–46: Issue a Telert maintenance bulletin to all principal airworthiness inspectors to inspect immediately all lavatory paper and linen waste receptacle enclosure access doors and disposal doors on the applicable aircraft for proper operation, fit, sealing, and latching for the containment of possible trash fires, in accordance with the requirements of AD 74–08–09.

Marine—

U.S. Coast Guard: Jul. 6: M–83–45: Study the collision damage caused by raked bow barges currently operating in the navigable waterways of the United States to determine if a modified bow design or fendering would improve vessel safety. *M–83–46:* If the conclusions of the study made in response to recommendation M–83–45 reveal that vessel safety can be improved thereby, take action to require modifications of raked bow barges currently in service and those entering the U.S. barge fleets.

New Orleans-Baton Rouge Steamship Pilots Association: Jul. 6: M–83–49: Remind member pilots of the importance of giving maximum clearance to tows while maneuvering in areas where currents may cause a tow to take on a high crossriver speed component if tow control is lost and the tow is deflected.

Le Beouf Brothers Towing Company, Inc.: Jul. 6: M–83–47: Provide all company-operated towboats with copies of current Inland Navigation Rules of the Road for use in the pilothouse. *M–83–48:* Review operating practices to insure that adequate towboat horsepower is being matched to barge tows relative to tow deadweight and length and expected current conditions on the routes being served.

Railroad—

Greater Cleveland Regional Transit Authority: Jul. 8 R–83–77: Conduct periodic comprehensive stopping distance tests with all possible combinations of equipment operated on the Greater Cleveland Regional Transit Authority (GCRTA) and adjust the minimum signal spacing and automatic train stop system installation on the GCRTA to accommodate without overrun the stopping distances developed in the testing program. *R–83–78:* Take action to increase training in and enforcement of the operating rules of the Greater Cleveland Regional Transit Authority prohibiting operators from having unnecessary conversations with other employees or passengers.

National Railroad Passenger Corporation (Amtrak): Jul. 8: R–83–62: Develop and install a central alarm system in sleeping cars to alert passengers occupying sleeping spaces of an emergency. The alarm should be actuated automatically by strategically located smoke detectors and should simultaneously deactivate the air circulating system. *R–83–63:* Study the feasibility of providing an override feature for the intercom system of each bedroom so that an emergency alarm would be received in each bedroom irrespective of the setting of the volume control and channel selection switch. *R–83–64:* Provide an emergency escape window exit in each sleeping compartment as well as in all passenger car hallways. *R–83–65:* Relocate the handles on the emergency escape window exits in superliner sleeping cars from the top to the bottom of the window giving priority to economy bedrooms where the handle cannot be seen or effectively operated with the upper berth lowered. *R–83–66:* Install in each sleeping compartment and all passenger car hallways effective, low mounted emergency lights which will provide a lighted escape path in the event of heavy smoke when an emergency evacuation is required. *R–83–67:* Evaluate the effectiveness of the handle design on Amtrak equipment emergency escape window exists to determine that the required operational forces to remove the windows and stripping are within human performance capabilities for the range of potential users and redesign if necessary. *R–83–68:* Improve the visibility of markings of emergency escape window exists on superliner cars and, in addition, conspicuously mark the outside of the superliner passenger cars to identify the emergency escape window exists and to provide adequate instructions for their removal. *R–83–69:* Discontinue the use of paper trash bags in all passenger trains and install fire proof trash containers. *R–83–70:* Conspicuously mark superliner sleeping and passenger car vestibule doors and end doors inside and out to indicate the location and method of operation of the door latch and any safety latch. *R–83–71:* Revise applicable sections of Service Manual A to prescribe specific emergency duties and responsibilities for all Amtrak on-board service personnel, relevant to all identifiable potential train accidents, with emphasis on on-board fires and on procedures for notification, evacuation, and post-accident disaster handling of passengers. *R–83–72:* Include both Amtrak supervisory personnel and onboard service personnel in refresher training programs covering the changes in Amtrak emergency procedures. Arrange with all railroads, over which Amtrak trains are operated, emergency training for traincrew employees qualified for assignment to passenger service. *R–83–73:* Extend the training program for on-board service personnel to require them to demonstrate their ability to operate emergency exists and emergency equipment and to perform assigned emergency responsibilities outlined in the Service Manual A in simulated exercises. *R–83–74:* Conduct a one-time survey of all passenger cars to identify materials that do not meet current flammability standards or that produce toxic fumes, and undertake a systematic program to replace them with materials that meet current flammability, smoke emission, and toxicity standards. *R–83–75:* Develop a passenger briefing card or placard with information on the location and operation of emergency exits, fire extinguishers, and first aid kits, and install them in prominent places in the passenger cars and in every bedroom in sleeper cars. In addition, require that the car attendants explain the emergency procedures to the passengers in each bedroom so that they will have an understanding of the car arrangement and the emergency facilities available.

Federal Railroad Administration: Jul. 8: R–83–76: Expedite the development of passenger car safety standards which were mandated by Congress in October 1980 (reiterated January 14, 1983), including in the standards:

(a) Criteria for the location and intensity of emergency lights within the cars to assure adequate visibility for escape from smoke-filled cars;

(b) Requirements for emergency evacuation plans, for training of personnel for emergencies, and for emergency systems, such as emergency exits and doors, smoke detector systems, etc., specifying the numbers, type, location, and markings;

(c) Acceptable levels of flame-spread rate, smoke emissions, and toxic fumes for interior materials; and

(d) Requirements for the installation of a sprinkler system to which water can be supplied by emergency equipment through externally mounted standard standpipes.

Missouri Pacific Railroad Company: Jul. 11: R–83–57: Establish rules to require enginecrews to communicate fixed signal aspects to conductors while trains are en route on signalized track. *R–83–58:* Establish supervisory procedures at crew-change terminals to insure that all operating department employees coming on duty at any hour of the day are physically fit and capable of complying with all pertinent operating rules. *R–83–59:* Enhance the training of all operating employees, especially conductors, in their responsibilities and duties so that they understand their responsibility to monitor the performance of other employees and to take positive action when rules violations occur.

United Transportation Union: Jul. 11: R–83–55: Inform its membership of the facts and circumstances of the accident which occurred at Possum Grape, Arkansas, on October 3, 1982, and recommend that they encourage each other to adhere to rule G before reporting and while on duty. *R–83–56:* Establish a union policy condemning the use of alcohol and drugs by union members before reporting and while on duty. Develop and implement an active campaign to this end directed to all members.

Brotherhood of Locomotive Engineers: Jul. 11: R–83–53: Inform its membership of the facts and circumstances of the accident which occurred at Possum Grape, Arkansas, on October 3, 1982, and recommend that they encourage each other to adhere to rule G before reporting and while on duty. *R–83–54:* Establish a union policy condemning the use of alcohol and drugs by union members before reporting and while on duty. Develop and implement an active campaign to this end directed to all members.

Pipeline—

Montana Power Company: Jul. 8: P–83–16: Inspect each customer meter installation to determine if a high-pressure gas service line is installed beneath a building and, where the condition exists, reroute all high-pressure piping to an outside location.

American Gas Association, Interstate Natural Gas Association, and American Petroleum Institute: Jun. 13: P–83–14: Notify its member companies of the circumstances of the accident in Hudson, Iowa, on November 4, 1982, and urge them to emphasize to their employees the importance of communicating fully with excavators about the extent of the proposed work and about the importance of remaining on the job site until all excavation activities are clear of the pipelines.

Land Improvement Contractors of America and American Public Works Association: Jun. 13: P–13–15: Notify its members of the circumstances of the accident in Hudson, Iowa, on November 4, 1982, and urge them to cooperate and communicate with pipeline operators before beginning excavation work and to explain fully their excavation plans and any changes in plans.

Northern Natural Gas Company: Jun. 13: P–83–12: Revise its procedures to require that employees performing excavation inspection work near company facilities be fully informed as to the location, depth, and change in depth of these facilities and to remain on the job until all excavation activities are well clear of company facilities. *P–83–13:* Instruct its employees to clearly explain to contractors working near company facilities that the depth of a pipeline may change abruptly in short distances and that the contractor should immediately notify the company about any changes in planned excavation activities.

Highway—

International Association of Chiefs of Police; American Trucking Associations, Inc.; National Tank Truck Carriers Association; American Petroleum Institute; Commercial Vehicle Safety Alliance (c/o Public Utility Commissioner of Oregon): Jul. 8: H–83–34: Assist the American Association of Motor Vehicle Administrators in developing a program to encourage the States to implement a uniform program for specifically licensing or certifying truckdrivers to transport hazardous materials.

American Association of Motor Vehicle Administrators: Jul. 8: H–83–30: Coordinate a program among the States to collect accident, traffic conviction, license suspension, and operational experience data regarding truckdrivers transporting hazardous materials. *H–83–31:* Develop recommended criteria for use by the States in requiring and issuing a special license or an endorsement on a commercial truckdriver license to operate trucks transporting hazardous materials. Parameters should include, but not be limited to: the minimum qualification level of operational experience and disqualifying factors, such as the number of traffic accidents, number and type of traffic violation convictions, and number of driver license suspensions. *H–83–32:* Develop specific recommended criteria for licensing tests for drivers of hazardous material trucks to enhance the safe transportation of hazardous materials, covering proficiency in: the operation of hazardous material trucks, loading and unloading practices for hazardous materials, and initial emergency response procedures in case of an accident. *H–83–33:* Encourage the States to implement uniform programs for specifically licensing or certifying truckdrivers to transport hazardous materials and to share driving record data regarding these drivers.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

July 11, 1983.

[FR Doc. 83–19055 Filed 7–15–83; 8:45 am]

BILLING CODE 4910–58–M

POSTAL SERVICE

Policy on Communications With Governors of the United States Postal Service During Pendency of Rate and Classification Proceedings

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Governors of the Postal Service intend to adopt a statement of policy on communications from the public with the Governors in rate and classification proceedings. Pending receipt and evaluation of public comments, the Governors will adhere to the policy and guidelines set forth in this document.

DATES: Comments must be received on or before September 16, 1983.

ADDRESS: Written comments should be sent to Mr. David F. Harris, Secretary, Board of Governors, U.S. Postal Service, Washington, D.C. 20260–1000.

FOR FURTHER INFORMATION CONTACT: David F. Harris, (202) 245–3734.

SUPPLEMENTARY INFORMATION: In carring out their statutory responsibility to direct "the exercise of the power of the Postal Service" and "represent the public interest generally," 39 U.S.C. § 202, the members of the Board of Governors recognize their responsibility to be accessible to the public. The Board holds monthly meetings open to the public, receives briefings and written materials on matters of postal policy and, through contacts with users of the service, keeps in touch with the needs of the mailing public. These contacts permit the members of the Board to make more informed and reasoned decisions.

Special considerations come into play, however, when the Governors act in their capacity as the final administrative decisionmakers on recommended decisions for the Postal Rate Commission. Under the Postal Reorganization Act, the Board of Governors reviews proposals of postal management for changes in rates and classifications and authorizes filings with the Postal Rate Commission. In connection with such filings, the Postal Service and interested parties participate in a full trial-type hearing before the Commission. The Commission hears the evidence and issues a recommended decision to the Governors, who are the final adminstrative decisionmakers. (The Postmaster General and Deputy Postmaster General do not participate in this decision because, although they are members of the Board, they are not Governors.)

The Act provides the Governors four options: they may approve the recommended decision and place it in effect; reject it; allow it to take effect under protest, in which case they can seek judicial review or send it back to the Commission for reconsideration; or, in certain circumstances, modify it. The Act requires the Governors to provide a written explanation and justification for their decision. If the Governors approve, allow under protest or modify a recommended decision, their action is subject to judicial review by the federal Courts of Appeals on the basis of the record before the Commission and the Governors.

The Governors are today publishing guidelines on communications from the public in rate and classification proceedings to provide notice of the applicable standards and to solicit comments from the public on these guidelines. Pending review of comments from the public and adoption of final guidelines, the Governors will adhere to the policy set forth in these proposed guidelines.

I. General Policy

To represent the public interest generally and to ensure that the Postal Service meets the needs of the mailing public, the Governors must be free to hold uninhibited discussions on a broad range of postal issues with mailers and the general public. Nevertheless, the Governors believe that certain restrictions on communications with the public are appropriate when the Governors act in their capacity as final administrative decisionmakers on recommended decisons of the Postal Rate Commission concerning postal rates and classifications. These restrictions should reflect a balance between, on the one hand, the need to safeguard the integrity of the

administrative process for setting rates and classifications and ensure meaningful judical review of decisions of the Governors on these subjects, and, on the other hand, the need for open access to the Board to permit its members to meet their statutory responsibilities. To strike an appropriate balance, the Board has adopted the following general guidelines: From the time the Postal Rate Commission issues a recommended decision until the Governors have acted on that recommended decision, any communication from an interested person to the Governors that is relevant to the merits of the proceeding should be on the public record and available for public inspection.

In reviewing recommended decisions of the Commission, the Governors act on the record before them. They are under no obligation to take communications from the public into account in reaching their decision.

II. Communications with the Governors During the Restricted Period

Once the Commission issues a recommended decision, and until the Governors have acted on that recommended decision by approving, rejecting, allowing under protest or modifying it, the following guidelines apply to communications with the Governors that are relevant to the merits of the proceeding.

A. Oral Communications

During the restricted period, it is the policy of the Governors not to receive oral communications relevant to the merits of the proceeding from any interested person. In the event such a conversation does inadvertently take place, the Governor involved shall prepare a memorandum of the conversation and submit it to the Secretary of the Board for inclusion in the public record, where it shall be available for public inspection.

B. Written Communications

During the restricted period any communication relevant to the merits of the proceeding that an interested person may wish to submit to the Governors must be in writing and should not exceed fifteen pages in length. Such comments should be based on the record and addressed to the Governors through the Secretary of the Board. If the commenter has been a party to the Commission proceeding, copies should be sent to all other parties to that proceeding. The Secretary shall make all such communications available for public inspection.

Because the Governors are often required to act promptly on a recommended decision from the Commission, interested persons seeking to communicate with the Governors should submit their comments no later than ten (10) days after the Commission has issued its recommended decision. This period may be extended at the discretion of the Governors.

C. Scope of the Guidelines

These guidelines apply to communications from interested persons to the Governors, their staff, personal assistants (if any), the Secretary of the Board and any official of the Office of the Board. Since the Act assigns final decisionmaking authority on Commission recommended decisions to the Governors and not the Board, these guidelines do not apply to the Postmaster General or the Deputy Postmaster General, nor do they apply to other officers or officials of the Postal Service. Moreover, in order to carry out their statutory responsibility to direct "the exercise of the power of the Postal Service," 39 U.S.C. 202(a), the Governors must be free to discuss all matters of postal policy with officers and employees of the Postal Service. Accordingly, no restrictions apply to communications between the Governors and Postal Service employees.

David F. Harris,

Secretary.

[FR Doc. 83-19236 Filed 7-15-83; 8:45 am]

BILLING CODE 7010-12-M

SECURITIES AND EXCHANGE COMMISSION

Philadelphia Stock Exchange, Inc., Application for Unlisted Trading Privileges and of Opportunity for Hearing

July 12, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12F-1 thereunder, for unlisted trading privileges in the common stock of:

Hecla Mining Company (Delaware)
Common Stock, $.25 Par Value (File No. 7-6806)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 2, 1983, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19369 Filed 7-15-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7997]

Precious Metals Holdings, Inc. Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

July 12, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Precious Metals Holdings, Inc. ("Company") has been listed and registered on the Amex since August 1980. On April 4, 1983, the Company was converted from a closed-end to an open-end investment company. The Amex has posed no objection to this matter.

Any interested person may, on or before August 2, 1983 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19370 Filed 7-15-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-3381]

The Pep Boys—Manny, Moe & Jack, Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration.

July 12, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of the Pep Boys—Manny, Moe & Jack ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on June 17, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before August 2, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19371 Filed 7-15-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before August 19, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review:

Title: SBA Export Resource Data Base Financing
Form No. SBA 18
Frequency: On Occasion
Description of Respondents: State or Local Governments, Business or other For-Profit, Federal Agency or Employees, Non-profit institution and small businesses or organizations providing information and assistance to small business.
Annual Response: 10,000
Annual Burden Hours: 833
Type of Request: Extension (adjustment to burden)

Title: Export Information Request
Form No. SBA 22
Frequency: On Occasion
Description of Respondents: Small Businesses or organizations requesting information on assistance in exporting.
Annual Response: 9,000
Annual Burden Hours: 450
Type of Request: Extension (no change)

Title: Client Export Profile
Form No. SBA 1174
Frequency: On Occasion
Description of Respondents: Small businesses and organizations requesting counseling on exporting.
Annual Response: 5,000
Annual Burden Hours: 850
Type of Request: Extension (adjustment to burden)

Title: Profile of SCORE/ACE Volunteer with Foreign Trade Experience
Form No. SBA 1202
Frequency: On Occasion
Description of Respondents: Individuals joining SCORE or ACE
Annual Response: 500
Annual Burden Hours: 34
Type of Request: New

Title: Application for Section 502/503 Loan
Form No. SBA 1244
Frequency: On Occasion
Description of Respondents: Small Businesses or Organizations applying for a Section 502 or 503 loan.
Annual Response: 912
Annual Burden Hours: 2,736
Type of Request: Revision

Title: Grant or Loan Request to Participate in International Trade Exhibition or Mission
Form No. SBA 1369
Description of Respondents: Small businesses or organizations requesting funding assistance.
Frequency: On Occasion
Annual Response: 100
Annual Burden Hours: 100
Type of Request: New.

Dated: July 11, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-19374 Filed 7-15-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Unusable Fuel Test Procedures for Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft advisory circular (AC) availability and request for comments.

SUMMARY: This AC provides design guidance information on unusable fuel test procedures for small airplanes as required by FAR 23.959 (CAR 3.437).

DATE: Commenters must identify file AC 23.959–XX, Subject: Unusable Fuel Test Procedures for Small Airplanes, and comments must be received on or before September 1, 1983.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Yotter, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. Commercial telephone 816–374–6941 or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Background: The specific flight conditions to be tested during determination of unusable fuel were deleted by Amdt 23–7 to FRA 23.959. Based on service experience, certain flight conditions have been found to be critical for small airplanes. FAA developed procedures for conducting unusable fuel test that have been available within FAA for several years. Therefore, to provide uniform application of unusable fuel test procedures, issuance of an Advisory Circular is warranted.

Comments Invited: Interested parties are invited to submit comments on the draft AC. Comments received on the draft AC may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, FederalOffice Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–19098 Filed 7–15–83; 8:45 am]

BILLING CODE 4910–13–M

Contracting-Out VFR ATC Tower Services

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of seminar—contracting-out of VFR air traffic control services.

SUMMARY: Notice is hereby given that the Federal Aviation Administration, Air Traffic Service, Special Projects, AAT–30, will conduct a seminar to gather information on the feasibility, desirability, and appropriate scope of Federal VFR air traffic control tower services—operations and/or maintenance—to be performed by private industry under contract. The seminar will include a report on experience with the current FAA pilot program and the possible need for legislation in this area.

Interested persons or organizations may attend, make written or oral presentations, and participate in discussions of this subject.

DATE: Beginning August 8, 1983, at 11:00 a.m., and continuing daily thereafter at 9:00 a.m., not to exceed 5 days.

ADDRESS: The seminar will be held at the Federal Aviation Administration, conference room 7 A/B/C, 800 Independence Avenue, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Air Traffic Service, Special Projects Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; (202) 426–3560. Attendance is open to the public, but limited space is available.

Issued in Washington, D.C., on July 11, 1983.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 83–19099 Filed 7–15–83; 8:45 am]

BILLING CODE 4910–13–M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 9:00 a.m., August 1, 1983, at the Corporation's Offices in Massena, New York. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than July 28, 1983, Robert D. Kraft, Director, Plans and Policy Development, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202/426–3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C. on July 11, 1983.

Robert D. Kraft,

Director, Plans and Policy Development.

[FR Doc. 83–19072 Filed 7–15–83; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 474]

Winegrape Varietal Names Advisory Committee; Open Meeting

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: An open meeting of the Winegrape Varietal Names Advisory Committee will be held at 9:00 am on August 25, 1983, in Room 402 of the Federal Building, 100 State Street, Rochester, New York.

SUPPLEMENTARY INFORMATION: Discussions will continue on what the Committee's recommendations should be concerning (a) the continued use of names now being used as grape varieties but which are not proper varietal names; (b) certain grape names which are still in question; (c) the use of multiple names (synonyms) for a single variety; and (d) guidelines or procedures for future addition of names to the varietal list.

The meeting will be open to the public. Any person who wishes to furnish written information or to address the Committee should submit the information or the request to appear to the Committee Manager at the address shown below. Request to appear before the Committee should

specify the purpose of the presentation, the subject matter to be covered, and the amount of time desired.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, Manager, Winegrape Varietal Names Advisory Committee, Room 6230, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7568).

Signed: July 11, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83–19235 Filed 7–15–83; 8:45 am]

BILLING CODE 4810–31–M

UNITED STATES SYNTHETIC FUELS CORPORATION

Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Issuance of Clarification of the Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects.

SUMMARY: Notice is hereby given that on July 12, 1983, the United States Synthetic Fuels Corporation issued the following Notice of Clarification of the Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects issued by the Corporation.

Notice of Clarification of the Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects

On June 30, 1983 the U.S. Synthetic Fuels Corporation issued a Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects (the "Solicitation"). The Corporation has noted the existence of a typographical error in Appendix C of the Solicitation, and wishes to notify all interested persons of a clarification to correct the typographical error.

1. Definition of "Eligible Product Increments"—Appendix C.

The date specified in paragraph C.1.1. of Appendix C should be June 30, 1999, rather than June 30, 1991.

Effective date: July 12, 1983.

Date: July 12,1983

United States Synthetic Fuels Corporation.

By: Charles A. Cowan, Jr.,

Senior Vice President for Projects.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President for Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6436.

For Copies of the Clarification of the Solicitation, Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6460.

United States Synthetic Fuels Corporation

Dated: July 12, 1983.

Jimmie R. Bowden,

Executive Vice President.

[FR Doc. 83–19240 Filed 7–17–83; 8:45 am]

BILLING CODE 0000–00–M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances, that on July 20, 1983, at 1 p.m., the Veterans Administration Medical and Regional Office Center, White River Junction, Vermont, station Committee on Educational Allowances, shall in room 220A, Administration Building, White River Junction, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled at Vermont Flying Service, Inc., Barre, Vermont, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of the law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: July 12, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83–19348 Filed 7–15–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 138
Monday, July 18, 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
Consumer Product Safety Commission	1
Federal Mine Safety and Health Review Commission	2
Uniformed Service University of the Health Sciences	3

1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, July 20, 1983

LOCATION: Room 456, Westwod Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. *30(d)—Cribs and Playpens*
   The Commission will consider litigation and adjudication matters involved in deciding whether to issue a rule that would transfer from the Federal Hazardous Substances Act to the Consumer Product Safety Act the regulation of a risk of injury to infants in mesh-sided cribs and playpens.
2. *Compliance Status Report*
   The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207.

[S–1039–83 Filed 7–14–83; 3:50 pm]

BILLING CODE 6355–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 13, 1983.

TIME AND DATE: 10 a.m., Tuesday, July 19, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, MSHA v. TAMMSCO, Inc., and Harold Schmarje, Docket Nos. LAKE 81–190–M, LAKE 82–65–M. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 57.5–5).
2. Secretary of Labor v. Freeman United Coal Mining Co., Docket Nos. LAKE 83–3, etc. (Administrative Law Judge's referral of motion to amend approved settlement due to clerical error.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1037–83 Filed 7–14–83; 12:28 pm]

BILLING CODE 6735–01–M

3

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., July 25, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 a.m., Meeting—Board of Regents:

(1) Approval of Minutes, 21 May 1983; (2) Faculty and Advisor Appointments; (3) Report—Admissions; (4) Report—Associate Dean for Operations—Budget; (5) Report—President, USUHS—(a) Graduate Education, (b) Foundation for the Advancement of Military Medicine, (c) School of Allied Health scineces, (d) Inspector General's Report, (e) Military Construction Progress, (f) Proposed Legislation—F. Edward Hebert School of Medicine, (g) Sabbatical Leave Policy—Retired Military, (h) Appointment of Retired Military, (i) Surgical Wound Laboratory, (j) Awards; (6) Comments by the Chairman of the Board.

New Business.

SCHEDULED MEETINGS: November 14, 1983.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board; 202/6595–1052.

July 13, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[S–1038–83 Filed 7–14–83; 12:29 pm]

BILLING CODE 3810–01–M

federal register

Monday
July 18, 1983

Part II

Department of Energy

Office of Conservation and Renewable Energy

Energy Extension Service; Final Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy,

10 CFR Part 465

[Docket No. CAS-RM-79-505]

Energy Extension Service

AGENCY: Office of Conservation and Renewable Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is issuing a final rule today, amending the regulations for the Energy Extension Service (EES) by requiring that a State grantee provide funds for EES activities from non-Federal sources in the amount of no less than 20 percent of the amount allocated to the State for those activities, by eliminating the requirement for a uniform budget period for all the States, and by making other administrative changes. The addition of the matching fund requirement is to bring the regulation into compliance with a recent legislation change, and the purpose of the other amendments is to provide greater flexibility to the States in administering the program. Many of the administrative amendments are the same or similar to changes proposed for the State Energy Conservation Program (SECP). By making requirements of the SECP and EES programs as similar as possible, DOE is improving and simplifying both programs, reducing the administrative burden for the States, and giving the States greater authority over decisions now made with substantial Federal involvement.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT:

Mary Fowler, Office of Energy Management and Extension, Department of Energy, Mail Stop CE-24, Room 5B-137, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-8287.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6G-094, Room 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Amendments to the Energy Extension Service
III. Environmental, Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act Reviews

I. Introduction

The Energy Extension Service (EES) was established by the National Energy Extension Service Act, Title V, Pub. L. 95-39, 91 Stat. 191 (42 U.S.C. 7001 *et seq.*). Regulations for the program, 10 CFR Part 465, were published by the Department of Energy (DOE) on October 2, 1978 (43 FR 45536). DOE amended the rule on November 21, 1979 (44 FR 66780) to change the date for submitting the first annual State application. Proposed amendments were published in the **Federal Register** on February 11, 1983 (48 FR 6502). The proposed amendments required that a State grantee provide funds for EES activities from non-Federal sources in an amount no less than 20 percent of its allocated funds, eliminated the requirement for a uniform budget period for all States, and made other administrative changes. Comments were invited for the following 30 day period ending March 14, 1983. Comments were received from twelve States and one territory. A public hearing was held on March 1, 1983 in conjunction with the public hearing on proposed changes to the State Energy Conservation Program. Five States provided testimony. The following section summarizes the written and oral comments and suggestions and the actions taken.

II. Amendents to the Energy Extension Service

Section 465.2 Definitions.

DOE proposed to change the definition of "small business" to make it consistent with the definition used in the DOE Financial Assistance Rules, which incorporates the criteria prescribed by the Small Business Administration (SBA). DOE received one comment supporting the change in the definition and one against it. The negative comment indicated that it would be too cumbersome to use the proposed definition because it defines the term differently according to how the term may be used in the program, yet none of the definitions clearly applies to how the term is used in the EES program. The SBA definition includes such uses as determining entities from which goods and services may be procured or to which loans may be extended. The EES program uses the term only for the determination of eligible recipients of State EES services. Since the intent of the regulatory change was, in part, to simplify procedures, DOE has deleted the proposed definition containing multiple uses and retained the single definition in the current regulation, modified only by deleting a reference to average annual receipts. This deletion will avoid the need for future amendments to the regulation to adjust the amount of the average annual receipts due to inflation.

To the extent that States procure goods or services from or have transactions with small businesses, other than providing them with EES service in the course of operating the States' EES programs, the definition of "small business" which appears in those circulars and documents cited in the regulation, such as the DOE Financial Assistance Rules, which apply to the transaction will govern that transaction.

Section 465.4 National Advisory Board.

DOE received one comment suggesting a change in the membership composition of the Advisory Board. No change has been made to this section of the regulation since the membership categories are specified by the program legislation, 42 U.S.C. 7008(a).

Section 465.5 Financial Assistance.

DOE received two comments suggesting changes to the formula for calculating State allocations of financial assistance for EES. Since the formula is specified in the program legislation, 42 U.S.C. 7010(c)(2), no change has been made.

One comment suggested that the regulation include more specific information on the criteria the Director should use in allocating funds to States for special State projects provided for in § 465.5(d) of the revised regulations. Although information on the criteria may be obtained by contacting DOE, it seems unnecessary to include so much detail in the regulation. In addition, it may become important to emphasize different types of projects from year to year, which would be difficult if the regulations had to be changed each time. For these reasons, no change has been made.

One comment was received opposing the requirement that each State provide funds for program activities from non-Federal sources in an amount of at least 20 percent of the State grant award. Because this requirement is needed to bring the regulation into compliance with Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 611 (42 U.S.C. 7270 Note), no change has been made.

The same comment requested that a State be permitted to use services funded completly by the State which serve the same audience and the same purposes as EES to fulfill its match requirement for the EES program. Such non-EES program services may be used in meeting the match requirement if they are incorporated into the State plan and if they meet the definition of eligible EES activities. This use of such non-EES program services is not included in the

regulation but will be added to the EES policy guidance.

Section 465.6 Annual State Applications.

In response to the proposed amendments to the budget and milestone requirements, DOE received a comment suggesting that the language be clarified to indicate that an object class budget is not required for each program measure. To clarify the requirement, DOE has added a statement in § 465.6(b)(2) that the annual State application shall include a total program budget by object class category and source of funding for the budget period for which financial assistance will be provided, as is currently required in both the EES and SECP policy guidance. The single-page form which States currently use to convey this information is OMB Standard Form 424, Part III. Budget and milestone details on each program measure, on the other hand, are required in § 465.6(b)(3) and are conveyed on the Management Summary Report form (OMB # 1901–0127). The Management Summary Report form does not require object class category information for each program measure.

One comment suggested that the Governor or a person designated by the Governor be able to sign the annual State application, noting that it is sometimes difficult to obtain a Governor's signature on routine administrative documents which are the responsibility of a State agency. The definition of Governor contained in § 465.2 includes provisions for an authorized person to act on his or her behalf. By this definition the Governor may designate another person to sign the annual State EES application and it is, therefore, not necessary to include a reference to an authorized person acting on the Governor's behalf in this section of the regulation.

Section 465.7 Submission and Contents of State Plans.

DOE received one comment asking that flexibility for States to develop their own plan formats be incorporated into the regulation. Current regulations permit considerable flexibility in plan development. Even greater flexibility will become available to States when DOE issues a final rule implementing Executive Order 12372 which allows States to simplify and consolidate existing Federally required State plan submissions. For these reasons, DOE has decided not to amend the regulations further in this area.

One comment also suggested that the requirement in § 465.7(c)(2) (iii) and (iv) of the revised regulations, that the plan name specific organizations involved in State plan implementation, be eliminated. The intent of this subsection, as is the intent of § 465.7(c)(1)(iv), is for a State to identify the range of existing organizations from whom competitive bids, if necessary, will be accepted for particular activities in the State plan. These could be such organizations as State agencies, private sector for profit groups, community-based not for profits groups, or educational institutions. A State need not be required to name the specific company or organization that will implement the work but a State may do so if a selection has been made. To clarify the intent of this requirement, DOE has deleted reference to specific types of organizations in § 465.7(c)(1)(iv), and made complementary adjustments in the language in § 465.7(c)(2) (iii) and (iv).

Section 465.11 Prohibited Expenditures.

DOE received several comments on the prohibited uses of EES funds. One comment supported the proposed deletion of the 10 percent limitation on expenditures of EES funds for evaluation, which has been deleted in the final rule. One comment also supported the greater flexibility provided by the changes to the entire section.

One comment asked for a clarification on the prohibition of expenditures for utility rate demonstrations. This provision prohibits the use of funds for such activities as administering experimental rates, reviewing public comments, conducting demonstrations on utility rates, and financing utility rate studies. Since such activities can be very expensive to undertake and may be better handled by utilities or public utility commissions, no change has been made in the regulation on the prohibition of expenditures for utility rate demonstrations.

The prohibition on use of EES funds to subsidize State insulation tax credits has been expanded to include all tax credits for energy conservation. Many more types of tax credits for energy conservation now exist than did at the time the program legislation was enacted. The prohibition now extends to these other types of tax credits as well.

One comment opposed the prohibition on the use of EES funds to conduct research, development, or demonstrations or to purchase equipment. No change has been made to this provision because such activities would not be in keeping with the legislative intent of the program. The focus of the EES program is on connecting small scale energy users with conservation techniques and technologies that are currently available to them. Providing funds for research, development and demonstration activities aimed at creating or testing new conservation techniques are outside of this focus and are therefore prohibited.

DOE, as a matter of policy, has permitted the demonstration of conservation techniques and technologies commercially available to EES target audiences. At the suggestion of one comment, this policy has now been specifically incorporated into the regulation in § 465.11(c). Demonstrations of commercially available conservation techniques or technologies are not subject to the prohibitions on construction, building repair, and retrofit equipment or to the 20 percent limitation on other types of equipment purchases.

Several States have expressed interest in using funds disbursed under Section 155 of the Further Continuing Appropriations Act, 1983, Pub. L. 97–377, under EES to undertake building retrofits and weatherization projects, and to establish regular or revolving loan funds to finance such retrofits or other activities. The proposed EES regulations were unclear concerning the propriety of the use of EES funds for such purposes. Review of the EES statute and legislative history indicates that the intent of the program is to provide small scale energy users with information and technical assistance on available energy conservation techniques and technologies. The underlying assumption is that such energy users will then invest their own resources in the techniques and technologies they consider appropriate for their circumstances. It is not the intent of the program to provide funds for the building retrofit or weatherization projects themselves. A specific prohibition on the use of funds under EES for energy conservation building retrofits or weatherization has been added to the regulation in § 465.11(a)(6) to clarify this intent.

Regarding loans, DOE has decided to allow States in § 465.11(d) to use regular or revolving loans (but not loan guarantees) to finance services which are consistent with the EES final rule and which are included in a State's approved EES plan. This means, for example, that a State could offer building energy audits to small businesses on a loan basis, if building energy audits is a measure included in the State's approved EES plan. But a State cannot make loans for energy conservation retrofits, since retrofits are

not permitted in the EES final rule. This addition to the regulations makes clear that loans are one type of financing mechanism for providing services which States may use in addition to other means, such as fee-for-service or services at no cost. Repaid loans and interest, if any, must be returned to the program for reuse on the same or other activities which are consistent with the EES final rule and which are included in a State's approved EES plan.

Section 465.12 Reports.

One comment suggested making the quarterly submission of required reports coincide with the State's approved budget period instead of within 30 days following the end of each calendar quarter as required by the proposed regulation. DOE considered this in the preparation of the proposed amendments but rejected it. For budget monitoring and reporting purposes, DOE needs State reports covering the same time periods even though DOE fully recognizes that these reports represent different portions of each State's budget period.

A comment also pointed out that there was a potential error in the OMB control number listed for the quarterly program performance and quarterly financial status reports. A review of the records has shown that the control number listed in the regulation (OMB #1901–0127) is correct. The form itself contains a typographical error in the number which will be corrected when it is reprinted at some future time.

Section 465.13 Administration of Financial Assistance.

One comment was received which stated that too little guidance was provided as to the precise regulations, laws or rules applicable to the grant. A list of the requirements of applicable laws or a list of applicable laws being referenced by the phrase "but without limitation" was requested. The lists provided in 10 CFR 600.2(e) and Appendix A to 10 CFR Part 600 (47 FR 44083, 44108), part of the DOE Financial Assistance Rules, contain the most current lists of applicable laws. DOE has chosen to simply list the Financial Assistance Rules and not to repeat the citation of each applicable law or other document in this regulation. The phrase "but without limitation" permits flexibility in keeping the regulation in compliance with future laws without requiring future regulatory changes.

III. Environmental, Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act Reviews

A. Environmental Review

As indicated in the February 11th notice, DOE prepared an environmental assessment [DOE/EA–0042] which was discussed in a notice of proposed rulemaking for the EES program published on June 5, 1978 (43 FR 24316) in the **Federal Register.** Based on this assessment, DOE determined that the regulation would not constitute a major Federal action significantly affecting the quality of the human environment, and that, therefore, preparation of an environmental impact statement was not required.

As stated in the February 11th notice, DOE has determined that the proposed amendments would clearly not have any significant impacts, and that no additional EA or EIS was required. DOE did not receive any comments on this determination.

B. Executive Order 12291

DOE has concluded that this rule is not a "major rule" under Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. DOE did not receive any comments directed at this certification.

The rule was submitted to the Director of the Office of Management and Budget pursuant to Executive Order 12291. The Director has concluded his review under that executive order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register.**

DOE certified in the February 11th notice that the proposed amendments would not have a significant economic impact on a substantial number of small entities. DOE did not receive any comments directed at this certification.

D. Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*). They have been assigned OMB control numbers 1904–0041 (EES) and 1901–0127 (DOE Uniform Contractor Reporting System).

E. The Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the Energy Extension Service is 81.050.

List of Subjects in 10 CFR Part 465

Energy conservation, Energy extension service, Grant programs/energy, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

In consideration of the foregoing, the Department of Energy amends Part 465 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 11, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 465 is revised to read as follows:

PART 465—ENERGY EXTENSION SERVICE

Sec.

465.1 Purpose and scope.
465.2 Definitions.
465.3 Comprehensive Energy Extension Service program.
465.4 National Advisory Board.
465.5 Financial assistance.
465.6 Annual State applications.
465.7 Submission and contents of State plans.
465.8 Approval of annual State applications and State plans.
465.9 Development and implementation of a State plan by the Director.
465.10 Administrative review.
465.11 Prohibited expenditures.
465.12 Reports.
465.13 Administration of financial assistance.

Authority: National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95–39, 91 Stat. 191 *et seq.* (42 U.S.C. 7001 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 965 *et seq.* (42 U.S.C. 7101 *et seq.*); Federal Grant and Cooperative Agreement Act of 1977, Pub. L.

95-224, 92 Stat. 3 *et seq.* (41 U.S.C. 501 *et seq.*); Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 611 (42 U.S.C. 7270 Note); E.O. 12009 (42 FR 46267); E.O. 12291 (46 FR 13193).

§ 465.1 Purpose and scope.

This part contains the regulation adopted by DOE to establish a comprehensive Energy Extension Service program which shall—

(a) Establish a positive energy outreach program directed toward small businesses and individual energy users and the organizations that influence their energy consumption;

(b) Stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical assistance of energy conservation efforts, including energy outreach activities of States; and

(c) Provide financial and technical assistance to the States for State plans which contribute to the implementation of the comprehensive Energy Extension Service program.

§ 465.2 Definitions.

As used in this part—

Act means the National Energy Extension Service Act, title V of Pub. L. 95-39, 42 U.S.C. 7001 *et seq.*

Barriers to energy conservation means problems or obstacles identified by small energy users which prevent or hinder them from adopting conservation techniques and technologies.

Building means any structure which includes provisions for a heating, cooling or hot water system, or which is used as a residential dwelling unit.

Community action agency means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, 42 U.S.C. 2701 *et seq.*, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Conservation techniques and technologies means actions likely to result in energy conservation.

Director means the Director of the EES office of DOE.

DOE means the Department of Energy.

Energy audit means a procedure to measure the consumption or cost of energy in order to identify conservation techniques and technologies in a building or industrial process.

EES means Energy Extension Service.

EES office means the national office of DOE established to develop and carry out the comprehensive EES program in accordance with the provisions of this part.

Energy conservation means efficient energy use or the utilization of renewable energy resources.

Governor means the chief executive officer of a State and the Mayor of the District of Columbia, or a person fully designated in writing by the Governor to act upon his or her behalf.

Grantee means a State or entity of the State named in the notice of grant award as the recipient of financial assistance provided under this part.

Operations Office Manager means the manager of a DOE Operations Office or his or her designee.

SECP means the State energy conservation plans developed and implemented pursuant to 10 CFR Part 420.

Secretary means the Secretary of the Department of Energy.

Service means technical assistance, instruction, information dissemination, energy audit or a practical demonstration concerning one or more conservation techniques and technologies.

Small business means an independently owned concern which together with its affiliates is not dominant in its field and which does not have more than 400 employees.

Small energy users means residential consumers, individuals and groups of individuals, small businesses including agricultural and commercial establishments, and units of State and local governments.

Special State project means a unique or innovative activity which is likely to bring about energy conservation in furtherance of the objectives of the Act, and which is not part of a State plan.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

State program means a set of related services provided to a target audience which is used to implement a portion of a State plan.

Target audience means the persons intended to receive services provided under a State program.

Technical assistance means assistance, other than direct financial assistance, including instruction, expert advice, information dissemination and practical demonstrations.

Technical support means activities provided by a State, such as specialized analyses, preparation of materials, training or other activities, which are necessary to implement a State plan effectively.

§ 465.3 Comprehensive Energy Extension Service program.

(a) DOE has established the EES office, administered by a Director, to develop and carry out the comprehensive EES program established by this part.

(b) The comprehensive EES program shall identify, develop and demonstrate in a practical manner, opportunities for energy conservation. This program shall be developed and implemented with particular regard for increasing the capability of small energy users to make informed energy decisions.

(c) The Director shall implement the comprehensive EES program by—

(1) Carrying out activities, through technical assistance where appropriate, for the identification, development and practical demonstration of opportunities for energy conservation;

(2) Collecting information and undertaking actions to eliminate barriers to energy conservation identified by small energy users;

(3) Carrying out activities that shall encourage the sharing of information, experience and meterials among the States regarding the comprehensive EES program;

(4) Providing financial assistance through the Operations Office Manager for the implementation of a State plan; and

(5) Providing technical assistance for the development, implementation or modification of a State plan.

(d) The Director shall take such steps as he or she may determine to be necessary to minimize conflict between existing services in the private sector that are similar to the services provided under the comprehensive EES program.

§ 465.4 National Advisory Board.

(a) The Secretary shall appoint a National Advisory Board which shall consist of not less than 15 nor more than 20 members. The members shall include persons representative of the interests of State, county and local governments, State universities, community colleges, community action agencies, energy users, small businesses and agriculture.

(b) The Secretary shall designate one member of the Board to serve as Chairman and shall provide the Board with the services and facilities as may be necessary to carry out its functions.

(c) The Board shall carry on a continuing review of the operation of the comprehensive EES program established by § 465.3 and the State plans approved by the Operations Office Manager according to § 465.8, for the purpose of evaluating their effectiveness in achieving the objectives of the Act and

determining how their operation might be improved in order to further these objectives.

(d) The Board shall report annually to the Congress, the Secretary, and the Director on the status of the comprehensive EES program, including any recommendations the Board may have for administrative or legislative changes needed to improve operation of the comprehensive EES program.

(e) The Secretary shall reimburse Board members for the full amount of any expenses necessarily incurred by them in the performance of their duties as such.

§ 465.5 Financial assistance.

(a) The Operations Office Manager shall provide financial assistance from funds available for any fiscal year to each State having an approved annual application according to § 465.8.

(b) Financial assistance shall be allocated among the States from funds available for any fiscal year based on the following formula—

(1) One-half shall be divided equally among all States; and

(2) One-half shall be divided on the basis of the State's population as reported by the Department of Commerce, Bureau of the Census, in the most recent decennial census.

(c) If a State's allocation of financial assistance is not obligated by the Operations Office Manager during the fiscal year, the allocation shall be reallocated among the States according to paragraph (b) of this section for the program's next funding cycle.

(d) Notwithstanding the provisions of paragraph (b) of this section, the Director may reserve from the funds appropriated for any fiscal year an amount to provide financial assistance to States for special State projects. This amount shall be determined by the Director, but in no event shall exceed 10 percent of the appropriated funds.

(e) Each State shall provide cash, in kind contributions, or both for EES activities in an amount totalling not less than 20 percent of the Federal funds allocated to it for this program. Cash and in kind contributions used to meet this State cost-sharing requirement are subject to the limitations on expenditures described in § 465.11(a). The type and amount of State cost-sharing shall be identified in the annual application.

(f) The budget period covered by the financial assistance provided to a State according to § 465.5(b) will be set by the State within parameters established by DOE.

§ 465.6 Annual State applications.

(a) To be eligible for financial assistance under this part, a State shall submit to the Operations Office Manager an original and two copies of an annual State application executed by the Governor. The date for submission of annual State applications shall be determined by DOE.

(b) An annual State application shall contain—

(1) The State plan or modifications of it, as required by § 465.7 (a) and (b) respectively;

(2) A total program budget broken out by object class category and by source of funding for the budget period for which financial assistance will be provided;

(3) A budget and listing of milestones for each State program or function contained in the State plan for the budget period for which financial assistance will be provided;

(4) A description of policies and procedures employed by the State which assure that financial assistance provided under this part does not supplant the expenditure of State or local funds for the same purposes, but rather supplements Federal, State, or local funds, and increases the expenditure of the State or local funds to the maximum extent practicable;

(5) A written summary and chronology of the procedures which were used to provide organizations and individuals with opportunity to comment on the State plan prior to or during its development. The opportunity to comment shall be provided to representatives of energy users and producers; State, county, and local officials; State universities and community colleges; cooperative extension services; community action agencies; and other public, private, or nonprofit organizations which are involved in active energy outreach activities. The written summary shall include—

(i) The name of the organizations afforded an opportunity to comment; and

(ii) How the comments received affected the contents of the State plan.

(6) A description of anticipated environmental impacts of any services which include the modification of buildings or structures to provide a practical demonstration of conservation techniques and technologies.

(c) The Governor may request an extension of the annual submission date by submitting a written request to the Operations Office Manager not less than 15 days prior to the date referred in the paragraph (a) of this section. The extension shall be granted if, in the Operations Office Manager's judgment, acceptable and substantial justification is shown and the extension would further the objectives of the Act.

[Approved by the Office of Management and Budget under control numbers(1904-0041 and 1901-0127)]

§ 465.7 Submission and contents of State plans.

(a) A State shall submit a State plan with—

(1) The first annual State application; and

(2) The annual State application submitted every 3 years thereafter.

(b) A State shall submit, with the annual State application, modifications to the State plan, if appropriate, for the years not referred to in paragraph (a) of this section.

(c) A State plan shall be developed for a 3-year period and contain—

(1) A description of the objectives to be achieved for the 3-year period by implementation of the State plan, which shall include—

(i) Why the objectives were selected, with particular reference to potential energy savings, increased use of renewable resources and the types and numbers of people affected;

(ii) How the State programs included in the State plan, and the emphasis and funding given to each, together represent a strategy to achieve these objectives;

(iii) How implementation of the State plan shall supplement and be coordinated with other energy conservation programs being carried out in the State with Federal funds or under other Federal laws; with particular reference to university programs providing extension services and the State's SECP;

(iv) How existing organizations will be used to the optimum extent to assist in the implementation of the State plan;

(v) How the State plan provides for information dissemination to small businesses and addresses organizations which influence the energy consumption of small energy users;

(vi) How the State plan makes energy audits available to small energy users, within personnel and funding limitations;

(2) A description for each State program in the State plan, which shall include—

(i) The target audience, why it was selected and the estimated number of persons which the State program expects to reach;

(ii) The services to be provided, including—

(A) How the services will meet the needs of the target audience;

(B) The conservation techniques and technologies to be used in each service;

(C) The type and estimated number of any energy audits if any are included; and

(D) The geographic areas in which the services shall be delivered and why these areas were selected;

(iii) Any technical support which is necessary to provide the services, including the type of organization that will provide the technical support and why that type of organization was selected; and

(iv) The type of organization which shall implement the State program and the type of any other organizations which shall provide a service to the target audience, why the selection was made and the approximate number of any new personnel to be employed to implement the State program;

(3) A description of the organization which shall administer the overall development and implementation of the State plan, which shall include—

(i) Why the administering organization was selected;

(ii) The provisions made for coordination between the administering organization and any other organization assisting in the implementation of the State plan; and

(iii) The relationship between the administering organization and the grantee if the two are not the same;

(4) A description of the methods and procedures which shall be used to—

(i) Identify barriers to energy conservation from responses which shall be obtained from target audiences;

(ii) Communicate information concerning the barriers to energy conservation to organizations within the State that have the capability or authority to remove or influence the barriers; and

(iii) Periodically report the results of such communication to the target audiences identified in paragraph (c)(4)(i) of this section;

(5) A description of the administrative procedures to be used in the implementation of the State plan which shall include—

(i) The procedures to be used to respond to suggestions and inquiries from the public regarding energy conservation;

(ii) The procedures to be used to publicize and disseminate up-to-date and easily understood information on the services available to small energy users under the State plan and under other Federal programs and activities of the State regarding conservation techniques and technologies; and

(iii) The system to be used to review, for technical accuracy, any publication or other material which the State shall prepare or use in a State program;

(6) A description of the purpose, methods and procedures of the independent evaluation activities, if any, that the State shall undertake regarding the State programs or services;

(7) A description of any additional technical support not described in (c)(2)(iii) of this section which is required to facilitate implementation of the State plan. If existing organizations are not available to provide this additional technical support or the technical support identified in paragraph (c)(2)(iii), the State may propose to establish a technical support institute, at one or more colleges or universities designated by the Governor. The purpose of the technical support institute shall be to assist in the implementation of the State plan by providing analyses and technical support which is required for effective implementation of the State plan. If such an institute is proposed, the State shall provide a detailed justification which shall describe—

(i) Why the institute is needed;

(ii) How the institute specifically relates to the implementation of the State plan; and

(iii) The purpose, location, size, and specific activities of the institute; and

(8) A description of the procedures that the grantee will use to achieve timely implementation of the State plan.

(Approved by the Office of Management and Budget under control number 1904–0041)

§ 465.8 Approval of annual State applications and State plans.

(a) The Operations Office Manager shall review each timely State annual application and provide financial assistance if he or she determines that—

(1) The State plan meets the objectives of the Act;

(2) The annual State application and the State plan meet the requirements of § 465.6 and § 465.7, respectively; and

(3) Implementation of the State plan by the State conforms to the requirements of this part.

(b) If the annual State application is not approved according to paragraph (a) of this section, the Operations Office Manager shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State shall have a reasonable time period, as determined by the Operations Office Manager, to amend its annual State application and submit it for reconsideration according to paragraph (a) of this section.

§ 465.9 Development and implementation of a State plan by the Director.

(a) The Director shall develop a State plan which meets the requirements of § 465.7, if—

(1) A State does not submit an annual State application in accordance with § 465.6; or

(2) The Operations Office Manager finally disapproves an annual State application according to § 465.10.

(b) Prior to developing a State plan under this section, the Director shall provide written notice and an opportunity for comment to the Governor.

(c) A State plan developed by the Director shall be transmitted to the Governor of the State and shall not be implemented for 90 days after the date of transmittal. Notwithstanding any provisions of this section to the contrary, no State plan developed by the Director according to paragraph (a) of this section shall be implemented if the Governor, within the 90-day period, notifies the Secretary in writing of his or her objection to the implementation of the State plan.

(d) In implementing a State plan developed according to this section to which the Governor has not objected during the 90-day period referred to in paragraph (c) of this section, the Director shall make maximum use of regional, State, or local organizations which deliver services which are appropriate for purposes of this part. The Director shall coordinate his or her activities in implementing the State plan with all other regional, State, or local organizatons which delever services which are related to, but not directly involved in, the implementation of the State plan.

(e) A State plan developed by the Director for a State whose financial assistance has been terminated according to § 465.10, shall provide for the continuation of all activities under the State plan which meet the requirements of this part.

§ 465.10 Administrative review.

(a) If the Operations Office Manager intends to deny an annual State application resubmitted by the Governor according to § 465.8(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 465.8(b) has expired, the Operations Office Manager shall give notice to the Governor.

(b) If the Operations Office Manager determines that implementation of a State plan approved according to § 465.9 fails to meet the requirements of this part, the Secretary shall give notice to

the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraph (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance, including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance. The hearing shall be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Operations Office Manager on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is member of the EES office shall be a member of the review panel. The review panel shall be appointed by the Operations Office Manager and shall consist of—

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the EES target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Operations Office Manager within 10 working days after the date of the public hearing.

(g) The Operations Office Manager shall submit the report, together with his or her recommendations, to the Director and to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Operations Office Manager.

(i) Upon issuance of the notice referred to in paragraph (a) or (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Operations Office Manager may terminate continued financial assistance to the grantee.

(j) If financial assistance to the grantee has been terminated, the Operations Office Manager may continue to provide financial assistance to persons other than the grantee to implement any acceptable provision of the State plan for the remainder of the budget period specified in the annual grant.

§ 465.11 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used—

(1) For construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures;

(2) To purchase land, a building or structure or any interest therein;

(3) To subsidize fares for public transportation;

(4) To subsidize utility rate demonstrations or State tax credits for energy conservation;

(5) To conduct or purchase equipment to conduct research, development or demonstration of conservation techniques and technologies not commercially available; or

(6) To purchase or install equipment or materials for energy conservation building retrofits or weatherization.

(b) No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited by this section.

(c) Demonstrations of commercially available conservation techniques and technologies are permitted, and are not subject to the prohibitions of § 465.11(a)(1) and (6), or to the limitation on equipment purchases of § 465.11(b).

(b) A State may use regular or revolving loan mechanisms to fund EES services which are consistent with this part and which are included in the State's approved EES plan. The State may use loan repayments and any interest on the loan funds only for activities which are consistent with this part and which are included in the State's approved EES plan.

§ 465.12 Reports.

Each State receiving financial assistance under this part shall submit to the Operations Office Manager a quarterly program report and a quarterly financial statement. The program performance report shall contain such information as the Director may prescribe in order to monitor effectively the implementation of the State plan. The reports shall be submitted to the Operations Office Manager within 30 days following the end of each calendar year quarter.

(Approved by the Office of Management and Budget under control number 1901–0127)

§ 465.13 Administration of financial assistance.

Grants provided under this part shall comply with applicable law including, but without limitation, the requirements of—

(a) Office of Management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(b) DOE Financial Assistance Rules (10 CFR Part 600); and

(c) Other procedures which DOE may from time to time prescribe for the administration of financial assistance under this part.

[FR Doc. 83-19047 filed 7-15-83; 8:45 am]
BILLING CODE 6450-01-M

federal register

Monday
July 18, 1983

Part III

Environmental Protection Agency

4-Chlorobenzotrifluoride; Decision To Adopt Negotiated Testing Program

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42026A; TSH FRL 2372-3]

4-Chlorobenzotrifluoride; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of November 8, 1982 (47 FR 50555), EPA announced a preliminary decision not to initiate rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of 4-chlorobenzotrifluoride (4-CBTF). This preliminary decision was made pending consideration of public comments on a testing proposal submitted to EPA by Occidental Chemical Corporation for 4-CBTF. On the basis of its review and consideration of public comments, the Agency finds no reason to alter its preliminary decision. The Agency has concluded that this testing program, which has been modified to respond to technical comments, will provide sufficient data to reasonably determine or to predict the health and environmental effects of 4-CBTF. Therefore, EPA has determined not to propose a section 4(a) rule to require environmental or health effects testing of 4-CBTF at this time.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In a previous notice, which appeared in the **Federal Register** of November 8, 1982 (47 FR 50555), the Agency announced a preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require environmental or health effects testing of 4-chlorobenzotrifluoride (4-CBTF). This decision was based on the Agency's tentative acceptance of a comprehensive testing proposal submitted by the Occidental Chemical Corporation (Occidental).

A draft of the Occidental proposal, which contained many of the protocols, was included in the public record (docket number OPTS-42026). The Agency requested comments on both its tentative decision not to require testing of 4-CBTF and on the proposed testing scheme.

II. Summary of Testing Program

The Occidental proposal consists of tiered systems for testing both health and environmental effects, with lower tier tests acting as triggers to additional testing or as stop points following review of the data with EPA personnel. The health effects testing program is divided into four major testing segments: (1) Acute toxicity screen, which has already been completed, (2) base set of tests, (3) conditional tests, and (4) additional mammalian testing, with three full program reviews (December 1983, March 1984, and March 1985). The environmental effects testing is divided into: (1) screening tests (acute toxicity, physical/chemical properties), (2) base set of tests, and (3) conditional tests, with one full program review occurring in November 1983.

The Occidental testing program will develop base sets of data for both environmental and health effects. For environmental effects, the base set data are derived from complete and partial life cycle tests using *Daphnia* and fathead minnow respectively, bluegill flowthrough bioaccumulation tests, soil adsorption/desorption tests, volatilization from water and photolysis in water studies, and anaerobic and aerobic aquatic metabolism investigations. The complete and partial life cycle tests are already completed; the other studies are scheduled to be completed in August 1983. Atmospheric fate studies while considered to be part of the conditional testing set are scheduled to be done after completion of the base testing for environmental effects. For health effects, the base set data are derived from subchronic exposure studies, primary metabolic studies (already completed), and mutagenicity and cell transformation studies (to be completed in August, 1983). Occidental is proposing to conduct a new 90-day subchronic toxicity study (scheduled for completion by November, 1983) because the existing study did not include a dose level at which toxic effects were observed. After a review of results from the base set tests by Occidental and EPA personnel, a determination will be made if further studies are necessary, such as additional subchronic studies, metabolic, reproductive, and teratogenicity investigations. Depending on the outcome of the base set tests, other testing such as carcinogenicity or effects on benthic organisms also may need to be considered.

III. EPA's Response to Public Comment

The Agency received comments only from the Natural Resources Defense Council (NRDC) on EPA's proposed decision not to test 4-CBTF and on Occidental's proposed testing scheme for this chemical. NRDC's comments overall indicated that the scope of the testing program was comprehensive and should meet the needs of the Agency in characterizing potential adverse health or environmental effects resulting from exposure to 4-CBTF. However, NRDC raised various issues, both legal and scientific, about EPA's proposed decision and about the proposed testing program. NRDC's basic concerns, along with EPA's response to each, are summarized below.

A. Legal Concerns

NRDC criticized EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4 of TSCA, arguing that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing has many procedural and legal deficiencies, particularly the lack of enforceability of negotiated testing agreements and their failure to trigger other statutory provisions that would trigger a section 4 rule.

EPA had previously addressed NRDC's general concerns about negotiated testing in a **Federal Register** notice issued on January 5, 1982 (47 FR 335) which discussed the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments is included in the public record of that action. As was indicated in that notice, EPA believes that neither TSCA nor its legislative history supports NRDC's contention that Congress believed that rules were the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be expeditiously developed by the involved companies.

EPA agrees that negotiated testing is not legally enforceable. However, as the Agency has previously indicated, there are strong practical reasons to expect that in the vast majority of cases, the involved companies will live up to their agreements. Furthermore, the Agency disagrees with NRDC's contention that, if EPA should be forced to develop a rule after the failure of a negotiated program, the entire program would take substantially longer than if EPA had pursued rulemaking from the beginning.

Rather, EPA believes that it could conduct an expedited rulemaking which in many cases would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would have been brought into play if the Agency proposed, and then promulgated, a testing rule for these substances. But EPA believes that NRDC has considerably exaggerated the practical impact of this difference. EPA agrees that a negotiated testing program does not trigger the obligation of a manufacturer of a new substance to a section 4 rule to submit test data under section 5(b)(1), and to delay manufacture. Nevertheless, that particular provision of section 5 is only applicable to rules for a chemical category under section 4 and therefore has no relevance to EPA's actions on 4–CBTF, a single chemical.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) makes data from any health and safety study on a chemical in "commercial distribution" (which should include virtually all chemicals designated by the Interagency Testing Committee) releasable on the same basis as section 14(b)(1)(A)(ii) which relates to data developed as a result of a test rule.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. We (GAO) further conclude that since voluntary testing agreements are consistent with the significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO. 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act. General Accounting Office. December 7, 1982. GAO/RCED–83–62. pp. 15.)

Based on the above, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to expensive, time-consuming rulemaking under section 4 of TSCA.

B. Scientific Concerns

1. NRDC noted that EPA should reserve the right to require long-term, chronic effects testing of 4–CBTF as well as chronic effects testing by the inhalation route. NRDC also noted that inhalation is a significant route of exposure, because workers are most likely to be exposed in this manner.

The Agency believes that, for TSCA section 4 purposes, a properly conducted 90-day subchronic study generally can produce sufficient data to reasonably predict chronic effects (USEPA. 1979. Proceedings of the Workshop on Subchronic Toxicity Testing. Denver, Colorado, May 20–24, 1979. OPTS Environmental Protection Agency). If the data obtained from the oral 90-day subchronic study are inadequate to reasonably determine or predict the chronic effects of 4–CBTF, EPA reserves the right to require industry to perform any further tests it considers necessary, such as a two year, chronic study. In addition, the Agency has seen no data to suggest that any toxicity for 4–CBTF would be dependent upon the route of administration. If the data from the metabolism studies and the oral 90-day subchronic study indicate that the route of exposure influences the type of effects observed, EPA reserves the right to require additional testing of appropriate duration by other routes of administration.

2. NRDC commented that the hierarchical approach to mutagenicity testing with a determinative *in vivo* test should be dropped infavor of a complementary battery of tests.

Because of prior positive results in two mutagenicity tests (sister chromatid exchange and unscheduled DNA synthesis), Occidental will perform an additional battery of tests on 4–CBTF. These test results will be used to determine what further testing, if any, is needed for 4–CBTF, including long-term testing and tests for heritable mutation. The Agency's general approach for mutagenicity testing under TSCA is a combination of a battery and a hierarchical approach. The first level testing includes four or more assays for gene mutation and chromosomal aberrations. These test results lead to additional testing for both mutagenicity and oncogenicity. The second level of testing in the Agency's scheme is *in vivo* testing, specifically tests to determine if the test agent reaches germinal tissue. This is because in pursuing mutagenicity as an endpoint in and of itself, it is necessary to determine if the test agent reaches germinal tissue where it may induce heritable gene or chromosomal mutations. A negative result at this stage of testing does not mean that a chemical is not a hazard. It merely indicates there is not sufficient evidence that the chemical reaches germinal tissue to justify undertaking whole animal tests for heritable mutations such as the specific locus and heritable translocation tests. Depending upon results in the lower tier, the chemical may still be considered to be a potential carcinogen and possibly subject to carcinogenicity testing.

3. NRDC noted that the method of evaluating mutagenicity data should be detailed and presented for public review.

The Agency believes that its method of evaluating mutagenicity testing is detailed adequately in the TSCA Test Guidelines (NTIS PB 82–232984) and was presented for public review in that context as well as in the proposed notice not to require testing under section 4(a) for 4–CBTF that appeared in the **Federal Register** on November 8, 1982 (47 FR 50555). Specific criteria for what is a positive or a negative result in these tests are provided in the TSCA Test Guidelines. Suggested changes to these criteria should be made in the Annual Reveiw of Test Guidelines Process (47 FR 41857, September 22, 1982). In addition, Occidental in response to NRDC's comments has revised the testing program to reflect the fact that both *in vitro* and *in vivo* test results, together with mammalian test data and metabolic information, will be used to assess risk and the need for additional testing.

4. NRDC commented that metabolic studies are not fundamental to section 4 testing and should not be given precedence over more relevant tests.

The Agency has concluded that, although not recommended by the Interagency Testing Committee, metabolic studies may be important in applying toxicology test data to risk assessment and in making extrapolations from test animals to humans. Occidental is proposing to do a metabolic study as part of the base set of tests, but it is not giving this study greater weight than any other test. No study that EPA has concluded to be important in the evaluation of the effects of 4–CBTF is being negelected because of the metabolic testing being conducted by Occidental.

5. NRD commented that the octanol/water partition coefficient of 4–CBTF should be determined experimentally rather than estimated from water solubility.

In general the Agency has concluded that an estimate of the octanol/water partition coefficient is sufficient, because that number is used primarily to estimate bioconcentration potential. In the case of 4–CBTF an actual bioconcentration potential study that

will address the accuracy of the estimate is planned.

6. NRDC noted that atmospheric fate studies should be part of the base set rather than part of the conditional testing set.

In response to NRDC's comment, Occidental clarified its intention ot indicate that atmospheric fate testing will be a definite part of the testing scheme. These tests were only placed in the conditional testing set because they involved complex and sophisticated test methodologies and adequate lead time was required to establish the appropriate testing procedures.

7. NRDC noted that testing for acute and chronic environmental effects on birds and wild mammals should be included in the environmental effects testing. The Agency believes it is appropriate to defer a decision on avian testing until the laboratory animal studies have been completed. If adverse effects are observed at low dose levels in these investigations and there is a demonstrated potential for substantial bioiaccumulation, the Agency will consider the need to requlre additional testing on avian species. So far as effects on wild mammals are concerned, it is accepted scientific practice to conclude that the results of laboratory animal tests would generally be applicable to wild mammals. The Agency acknowledges, however, that these inferences must be treated on a chemcial-specific basis. In the event that data emerging from the 4–CBTF testing program indicates a need to reconsider this approach in the context, EPA intends to do so. However, the Agency sees no basis at the present time to require avian or wild mammal testing.

IV. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 [docket number OPTS–42026]. This record includes:

(1) **Federal Register** notice designating 4–CBTF to the priority list.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays in Room E–107, 401 M St. SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received. (Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601)).

Dated: July 11, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-19287 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Monday
July 18, 1983

Part IV

Federal Emergency Management Agency

Temporary Housing Assistance Program; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 205 and 206

Temporary Housing Assistance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule establishes the Federal Emergency Management Agency (FEMA) regulations for the Temporary Housing Assistance Program under Section 404 of the Disaster Relief Act of 1974. Temporary Housing Assistance is provided to applicants who require it as a result of a major disaster or emergency declared by the President. The regulation specifies program intent, eligibility criteria, types of assistance authorized, policy and procedures for recertification and termination of assistance, and guidelines for non-Federal administration of the program.

EFFECTIVE DATE: The effective date of this rule is September 16, 1983, for all disasters declared on or after that date.

FOR FURTHER INFORMATION CONTACT: Sarah Wise, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, 202–287–0550.

SUPPLEMENTARY INFORMATION: On January 7, 1982, FEMA published a proposed rule in the **Federal Register**. Ten State agencies and one FEMA Regional Office provided comments. As a result, several changes were made.

Several comments were made about paragraph (f)(1)(ii) of the proposed regulation, the condition of eligibility requiring that no adequate alternate housing be available to the applicant. As a result, this condition has been deleted.

FEMA has determined that the requirements of the Flood Disaster Protection Act, Pub. L. 93–234, as amended, do not apply to minimal repairs because the recipients of this assistance generally receive assistance from other disaster programs to complete repairs later, at which time these requirements will be imposed. However, minimal repairs may not be provided in suspended or sanctioned communities if any of the proposed repairs are insurable. Accordingly, paragraph (i)(1) of the proposed rule has been deleted and paragraph (i)(2) has been added to cover this determination.

Also in paragraph (i)(4)(xiv), emergency repair to access routes has been added to the scope of work for minimal repairs.

One State agency, while concurring with the change to separate Limited Home Repairs from the Individual and Family Grant Program and permit cash payments under minimal repairs, paragraph (i)(2), expressed concern over check disbursement procedures and potential delays. FEMA shares this concern and intends to make every effort to expedite payment to eligible applicants, including processing at the local Disaster Housing Office and check disbursement at the nearest Treasury Office.

Regarding paragraph (r)(2)(iii)(A)(*2*), a commenter objected to the use of Individual and Family Grant (IFG) funds for purchase of a Government-owned mobile home, interpreting this as IFG program subsidy of temporary housing. FEMA disagrees since the sale of a mobile home is authorized only for "permanent" housing. Permanent housing needs are appropriately covered by IFG funds.

A comment was made recommending that there be a continuing agreement between the Regional Director and the Governor concerning State adminstration of Temporary Housing Assistance rather than negotiating a cooperative agreement at the time of a decision. As a result, paragraph (w) has been rewritten to require interested States to submit a State Temporary Housing Assistance plan to the Regional Director for approval. This shall be done as a preparedness measure, prior to any disaster. This administrative plan will be the basis for an operational annex tailored to each disaster.

Three States objected to the amount of control which FEMA intends to exercise under paragraph (w), Non-Federal Administration of Temporary Housing Assistance. Concern was expressed that States will be urged to accept responsibility for operations with no genuine role in management. Because the FEMA Regional Director has ultimate responsibility for Temporary Housing Assistance, it is essential that adequate provisions be made to allow him to assure timely delivery of assistance. It is not FEMA's intention to assign the administration of the program to any State which does not display willingness and capability in this area.

Several minor changes were also incorporated as a result of comments received, and numerous editorial revisions were made. However, many of the comments will be handled through interpretation of the regulations and will be clarified in Temporary Housing Assistance manuals.

An environmental assessment resulting in a finding of no significant impact has been prepared in accordance with 44 CFR 10.9(e), and pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508). Copies of this assessment may be inspected or obtained at the Office of Disaster Assistance Programs, Individual Assistance Division; or at the Office of Rules Docket Clerk, FEMA, 500 C Street, SW., Washington, D.C. 20472.

List of Subjects

44 CFR Part 205

Disaster assistance, Grants programs—housing and community development.

44 CFR Part 206

Administrative practice and procedure, disaster assistance, housing.

Section 205.52(w) provides for collection of information. This request has been submitted to OMB for review under the Paper Work Reduction Act and has not yet been approved. It is expected that OMB will have approved the request by the effective date of this regulation.

PART 206—[REMOVED]

PART 205—[AMENDED]

Accordingly, 44 CFR Part 206 is removed and 44 CFR 205.52 is revised as follows:

§ 205.52 Temporary housing assistance.

(a) *Purpose.* This section prescribes the policy and program guidance to be followed by the Federal Government or any other organization when implementing Section 404, Disaster Relief Act of 1974, 42 U.S.C. 5174.

(b) *Program intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency declared by the President. Eligibility for assistance is based on need. This need may be caused by disaster-related uninhabitability of a primary residence or other disaster related displacement, combined with a lack of adequate insurance coverage. Applicants are encouraged to take the initiative for obtaining temporary housing, and eligible applicants may be reimbursed for authorized accommodations and repairs.

Ineligibility ralates only to the criteria for Temporary Housing Assistance; denial of such assistance does not imply that repairs to a residence are not required. Although numerous instances of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be whether any single item makes a residence uninhabitable. FEMA has made the assumption that it is reasonable to expect applicants or their landlords to make some repairs of a minor nature. The assistance provided is similar to some types of assistance available through insurance.

(c) *Definitions.* (1) "Adequate alternate housing" means housing that:

(i) Does not present health or safety hazards;

(ii) Is reasonable in size to accommodate the needs of the applicant(s)/occupant(s);

(iii) Is within reasonable commuting distance of work, school or other centers of household activity;

(iv) Is within the financial ability of the applicant(s)/occupant(s); and

(v) Does not impose an undue burden upon the applicant(s)/occupant(s) in the realization of his/her reasonable permanent housing plan.

(2) "Effective date of assistance" means either the date the eligible applicant obtained his/her own approved temporary housing or the date the eligible applicant is provided with approved temporary housing, but, where applicable, only after ALE benefits are exhausted.

(3) "Essential living area" means that area of the residence essential to normal family living, i.e., kitchen, one bathroom, dining area, living room, entrances and exits, and essential sleeping areas. It does not include family rooms, guest rooms, garages, or other nonessential areas, unless hazards exist in these areas which impact the safety of the essential living area.

(4) "Existing resources" means hotels, motels, apartments, houses, mobile homes, or any other housing available for lease as temporary housing.

(5) "Fair market rent" means a reasonable amount to pay in the local area for the size and type of accommodations provided. (Formula is provided in paragraph (j) of this section.)

(6) "Financial ability" is the determination of the applicant's(s)/occupant's(s) ability to pay housing costs. The determination is based upon either 25% of gross post-disaster income or the percent of income allotted to housing prior to the disaster, whichever is greater. (For example, if the applicant allotted 40% of income to housing costs prior to the disaster, his/her financial ability would be 40% of post-disaster income. If an applicant paid 20% of his/her income for housing prior to the disaster, his/her financial ability would be 25% of post-disaster income.) Occupants who qualify for available low-income or other Government rent subsidies shall be considered able to assume financial responsibility for this type of alternate housing. When computing financial ability, extreme unusual financial circumstances may be considered by the Regional Director or his/her designee.

(7) "Household" means the residents of the pre-disaster residence who request Temporary Housing Assistance, plus any authorized additions during the temporary housing period, such as infants, spouses or part-time residents who were not present at the time of the disaster but who are expected to return during the temporary housing period.

(8) "Housing costs" means shelter rent and mortgage payments including principal, interest, real estate taxes and real property insurance. Utility costs shall not be included except for utility costs on the pre-disaster owner-occupied residence which are essential while the residence is under repair.

(9) "Minimal repairs" means the necessary repairs authorized to quickly repair or restore to a habitable condition that portion of the essential living area of an owner-occupied primary residence which was damaged as a result of the disaster.

(10) "Occupant" means an eligible applicant residing in temporary housing provided under this section.

(11) "Owner-occupied" means that the residence is occupied by: the legal owner; a person who does not hold formal title to the residence but is responsible for the payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights with formal title vested in another.

(12) "Primary residence" means the dwelling where the applicant normally lives during the major portion of the calendar year, or a dwelling which is required because of proximity to employment.

(13) "Reasonable in size" means the size of a residence, taking into consideration household composition (age and sex), pre-disaster housing situation, and available resources. This definition and the application of the following occupancy table should be used a a guide in meeting minimum temporary housing requirements as well as in making referrals to adequate alternate housing.

Number of bedrooms	0	1	2	3	4	5
Minimum/maximum occupants	1-2	1-2	2-4	3-6	4-8	5-10

(14) "Transient accommodations" means hotels, motels, or other similar accommodations which are utilized to assist eligible applicants who require temporary housing for only a short period of time or who require such assistance pending provision of other types of Temporary Housing Assistance.

(d) *Duplication of benefits.* Assistance under Section 404 shall not be provided to an applicant if such assistance has been provided by any other source. If any State or local government or volunteer agency has provided temporary housing, the assistance this section begins at the expiration of such assistance and may continue rent-free, not to exceed twelve months provided the criteria for continued assistance, paragraph (o)(3) of this section, are met. If it is determined that Temporary Housing Assistance will be provided under this section, notification shall be provided to any other agency which has the potential to duplicate such assistance. In the instance of insured applicants, assistance shall not be provided if insurance proceeds are available, except as indicated in the following subparagraphs:

(1) Additional living expense (ALE) coverage. An insured applicant who has ALE coverage may be provided Temporary Housing Assistance only if he/she has made every reasonable effort to secure ALE benefits and when:

(i) There is a delay in determining whether the benefits will be available; or

(ii) Payment of the benefits may be significantly delayed; or

(iii) Such benefits have been exhausted; or

(iv) Such benefits are insufficient to provide the full cost of rental housing on the private market; or

(v) Housing is not available on the private market.

Applicants who are determined eligible for Temporary Housing Assistance and who have received ALE may be provided Temporary Housing Assistance upon presentation of proof that the benefits have been exhausted and temporary housing remains a need. These applicants shall be eligible for rent-free Temporary Housing Assistance not to exceed twelve months following exhaustion of ALE if the criteria for continued assistance, paragraph (o)(3) of this section, are met. For applicants who are determined eligible for Temporary

Housing Assistance and who received insufficient ALE benefits, the period of Temporary Housing Assistance shall commence with the first month of partial assistance.

(2) "Reasonable repairs" clause and other structural/content coverage. FEMA has recognized the potential for duplication between minimal repairs and the "reasonable repairs" clause in insurance policies. Under this clause, insured homeowners are required to take measures to protect their property from further damage by making reasonable repairs, and they are then reimbursed for the reasonable cost of taking such measures. Such repairs are often the same as those authorized under minimal repairs. Additionally, FEMA recognizes that repairs not covered under this clause should be covered in whole or in part by other clauses of the policy. Therefore, insured applicants who are determined eligible for Temporary Housing Assistance shall be provided minimal repairs only if they have made every reasonable effort to secure those insurance benefits and when:

(i) There is a delay in determining whether the insurance benefits will be available; or

(ii) Payment of all or part of insurance benefits applicable to the repairs may be substantially delayed; or

(iii) When an item in the scope of work is not covered in full by any part of the insurance policy, e.g., wells and septic tanks are not covered under the National Flood Insurance Program (NFIP).

Recovery of funds. Prior to provision of assistance, the insured applicant shall agree to repay FEMA from insurance proceeds he/she receives for shelter in an amount equivalent to the fair market value of assistance provided, or that portion of insurance proceeds received for such housing, whichever is less. Minimal repairs recipients shall repay to FEMA the full cost of any repairs or replacement which are covered by insurance, or the amount received from insurance proceeds for the items repaired or replaced, whichever is less.

(e) *Applications.* (1) Application period. Applications for Temporary Housing Assistance shall be accepted for a sixty (60) day period following the date of the declaration of a major disaster or emergency, unless additional time for submission of applications is authorized by the Regional Director in order to achieve uniformity of application periods in contiguous states. After the established period, applications shall be accepted; however, processing shall not be completed unless authorized by the Regional Director or his/her designee, on a case-by-case basis, for reasons such as, but not limited to:

(i) Hospitalization, illness, handicap, or death in the immediate family, which prevented application;

(ii) Inability to contact the assistance offices because of inaccessibility, lack of transportation, or communications;

(iii) An inability to understand written or oral messages regarding the assistance offered, application process or deadlines;

(iv) Eviction, when disaster-related, where notification is made near or after the close of the application period; or

(v) Exhaustion of insurance benefits after the application period.

(2) Household composition. Members of a household shall be included on a single application and provided a single temporary housing residence unless the size of the household requires more than one residence.

(f) *General eligibility guidelines.* Temporary Housing Assistance may be made available to those applicants who, as a result of a major disaster or emergency declared by the President, require such assistance.

(1) Conditions of eligibility. Temporary Housing Assistance may be provided only when both of the following conditions are met:

(i) The applicant's primary residence has been made uninhabitable or the applicant has been displaced as the result of a major disaster or emergency because:

(A) The residence has been destroyed, essential utility service has been interrupted, or the essential living area has been damaged as a result of the disaster to such an extent as to constitute a serious health or safety hazard which did not exist prior to the disaster. Guidelines defining health and safety hazards shall relate directly to the items authorized in the scope of work for minimal repairs which are listed in paragraph (i)(4) of this section. The Regional Director shall prepare additional guidelines when necessary to respond to a particular disaster.

(B) The residence has been made inaccessible after the incident to the extent that the applicant cannot reasonably be expected to gain entry due to the disruption or destruction of transportation routes, other impediments to access, or restrictions on movement by a responsible official;

(C) The owner requires the residence to meet his/her personal needs resulting from the disaster;

(D) Financial hardship resulting from the disaster has led to eviction or dispossession; or

(E) Other circumstances resulting from the disaster, as determined by the Regional Director, prevent the applicant from occupying his/her pre-disaster primary residence.

(ii) Insured applicants have made every reasonable effort to secure insurance benefits, available proceeds are insufficient as defined in paragraph (d) of this section, and the insured has agreed to repay FEMA from whatever insurance proceeds are later received, pursuant to paragraph (d) of this section.

(2) Conditions of ineligibility. Temporary Housing Assistance shall not be provided:

(i) To an applicant who is displaced from other than his/her primary residence; or

(ii) To an applicant who is displaced solely as a consequence of a redevelopment program undertaken by a community; or

(iii) When the residence in question is habitable, i.e., only minor damage which creates potential or minor health or safety hazards exists and it can reasonably be expected to be repaired by the applicant-owner or the landlord; or

(iv) When the applicant owns a secondary or vacation residence, or unoccupied rental property which meets his/her temporary housing needs.

(g) *Temporary housing resources.* The form of temporary housing provided may include:

(1) Minimal repairs. These may be accomplished by cash payment, Government contract, and/or provision of materials.

(2) Existing resources. These may include locally available Government-owned or assisted properties and private or commercial properties.

Sharing of accommodations with family or friends shall not normally be considered appropriate for use as an existing resource. The Regional Director or his/her designee may authorize payment of reasonable costs for space and facilities only when an eligible applicant requests such Temporary Housing Assistance, the lodging is adequate for the applicant(s) needs, and actual rent is being charged. For example, this living arrangement may be acceptable for a single applicant or elderly couple, particularly for those who need to live with someone. Such accommodations shall not be authorized for use as transient accomodations since it is likely that costs incurred during a transient period are for food or utilities, rather than actual payment of shelter rent.

(3) Mobile homes, travel trailers, or other readily fabricated units owned or leased by the Government.

(h) *Priority utilization of resources.* The form of temporary housing provided should not exceed eligible applicants' minimum requirements, taking into consideration items such as timely availability, cost-effectiveness, permanent housing plans, special needs (handicaps, etc.) of the applicants, and the requirements of FEMA's floodplain management regulations at 44 CFR Part 9, Floodplain Management and Protection of Wetlands. Applicants who are recommended for minimal repairs shall be provided this form of assistance unless extraordinary circumstances warrant provision of another resource in lieu of minimal repairs. Existing resources shall be utilized to the fullest extent practicable prior to provision of Government-owned mobile homes. An applicant shall receive only one form of temporary housing, except for transient accommodations, or except when provision of another form is in the best interest of the Government for reasons such as cost-effectiveness. An eligible applicant is expected to accept the first offer of temporary housing; unwarranted refusal shall result in forfeiture of Temporary Housing Assistance.

(i) *Use of minimal repairs.* Minimal repairs may be authorized to quickly repair or restore to a habitable condition, that portion of the essential living area of, or private access to, an owner-occupied primary residence, which was damaged as a result of the disaster. Such assistance shall not be used for major reconstruction or rehabilitation. Installation of utilities or conveniences not available in the residence prior to the disaster shall not be provided under minimal repairs. However, repairs which are authorized shall conform to applicable local and/or State building codes; upgrading of existing damaged utilities may be authorized when required by these codes.

(1) Feasibility. Minimal repairs may be provided to those eligible applicants:

(i) Who are owner-occupants of the residence to be made habitable;

(ii) Whose residence can be made habitable by repairs to the essential living area within 30 days following the feasibility determination. The Regional Director may extend this period for extenuating circumstances by determining that this type of assistance is still more cost-effective, timely and otherwise suitable than other options for temporary housing; and

(iii) Whose residence can be made habitable within the amount required to assist a typical household in an existing resource for twelve months. To determine this cost limitation:

(A) Total the rental amounts established as fair market rent guidelines in each designated area for bedroom sizes one through four;

(B) Divide each total dollar figure by four;

(C) Add together all the average amounts derived in paragraph (i)(1)(iii)(B);

(D) Divide the overall total computed in paragraph (i)(1)(iii)(C) by the number of designated areas used in this computation; and

(E) Multiply the result by twelve and round to the nearest hundred dollars.

The Associate Director may waive this cost limitation when this type of assistance is cost-effective in comparison to other options for Temporary Housing Assistance.

(2) Requirements of the Flood Disaster Protection Act. FEMA has determined that flood insurance purchase requirements need not be imposed as a condition of receiving minimal repairs. Minimal repairs recipients will normally receive assistance for permanent repairs from other programs which will impose the purchase and maintenance requirements. However, except items which are not insurable under the National Flood Insurance Program (i.e., access, sewer and septic systems) minimal repairs may not be provided in zones A or V of a suspended or sanctioned community.

(3) Options for minimal repairs. Eligible applicants approved for minimal repairs may be assisted through one or a combination of the following methods:

(i) Cash payment. Payments shall be limited to the reasonable costs for these repairs and replacements in the locality, as determined by the Regional Director or his/her designee.

(ii) Provision of materials and replacement items.

(iii) Government awarded repair contracts, when authorized by the Associate Director.

(4) Scope of work. The type of repair or replacement authorized may vary depending upon the nature of the disaster. Items will be repaired where feasible or replaced only when necessary to insure the safety, security or health of the occupant. Replacement items shall be of minimum quality, size and capacity taking into consideration the needs of the applicant(s). Minimal repairs shall be disaster-related and shall be limited to:

(i) Repairs to the plumbing system, including repairs to or replacement of fixtures, providing service to the kitchen and one bathroom;

(ii) Repairs to the electrical system providing service to essential living areas, including repairs to or replacement of essential fixtures;

(iii) Repairs to the heating unit, including repairs to duct work, vents, and integral fuel and electrical systems. Replacement of a heating unit may be authorized by the Regional Director when an inspection shows that the unit has been damaged beyond repair, or when the unavailability of necessary parts or components makes repair impossible. Repair or replacement of the heating unit will be authorized only when repair or replacement through other forms of assistance cannot be accomplished before the start of the season requiring heat;

(iv) Repairs to or replacement of essential components of the fuel system to provide for cooking, and to provide for heating when assistance through other programs cannot be accomplished before the start of the season requiring heat;

(v) Pumping and cleaning of the septic system, repairs to or replacement of the tank, drainfield, or repairs to sewer lines;

(vi) Flushing and/or purifying the water well, and repairs to or replacement of the pump, controls, tank and pipes;

(vii) Repairs to or replacement of exterior doors, repair of windows when the repair required exceeds glazing, and of screens needed for health purposes;

(viii) Repairs to the stove and refrigerator, when feasible in lieu of provision of these items under paragraph (n) of this section;

(ix) Temporary weather-proofing repairs to the roof, only when multiple or severe roof leaks affect the essential living area;

(x) Temporary repairs to interior floors, when severe buckling or deterioration creates a serious safety hazard;

(xi) Blocking, leveling and anchoring of a mobile home;

(xii) Reconnecting and/or resetting mobile home sewer, water, electrical and fuel lines and tanks;

(xiii) Towing necessary to remove a mobile home from its original site and to replace it on the original site, only when necessary to accomplish other authorized minimal repairs;

(xiv) Emergency access repairs to private access routes, limited to those repairs that meet the minimum, safe usable standards and using the most economical materials available. Such repairs are provided on a one-time basis when no alternative access facilities are immediately available;

(xv) Elimination of other health and safety hazards or performance of essential repairs which are authorized by the Regional Director as not available through emergency services provided by volunteer or community agencies, and cannot reasonably be expected to be completed on a timely basis by the applicant without FEMA assistance.

(j) *Use of existing resources.* Payment for utilization of Government-owned or assisted properties shall be in accordance with memoranda of understanding between FEMA and the providing agency. Owners/agents of private or commercial properties may be paid fair market rent for the type and size of residence made available. At each disaster site, fair market rent guidelines for each size residence shall be established by averaging the cost of available residences per bedroom size for each locality where temporary housing will be provided. Where privately-owned mobile homes are to be used, a separate guideline should be developed because of the substantial difference in rent between this type of residence and conventional housing. Guidelines for hotels, motels and other short-term resources shall be developed only when there is a substantial variance in price among the available supply. The purpose of these fair market rent guidelines is to prevent development of an inflated rental market resulting from the disaster and to insure cost-effectiveness. These guidelines reflect the desired maximum payment; however, many resources should be obtained at a lower price. Use of resources more costly than the guidelines may be authorized for full payment only when other existing resources are not available. When authorized by the Regional Director or his/her designee, the Federal Government may pay for security deposits; however, the owner or occupant shall reimburse the full amount to the Federal Government before or at the time that Temporary Housing Assistance is terminated.

(k) *Use of transient accommodations.* Immediately following a Presidentially-declared major disaster or emergency, disaster victims are expected to stay with family or friends without FEMA assistance, or to make use of mass shelters to the fullest extent possible for short-term housing. Thereafter, transient accommodations may be provided when individual circumstances warrant such assistance for only a short period of time or pending provision of a temporary housing resource. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Director. Authorized expenditures for transient accommodations shall be restricted to the rental cost including utilities except for those which are separately metered. Payment for food, telephone, or other similar services is not authorized under this section.

(l) *Use of mobile homes, travel trailers, and other readily fabricated units.* Government-owned or privately-owned mobile homes, travel trailers, and other readily fabricated units may be placed on commercial, private or group sites in accordance with applicable State and local codes and ordinances as well as FEMA's floodplain management regulations at 44 CFR Part 9, as follows:

(1) A commercial site is a site customarily leased for a fee because it is fully equipped to accommodate a temporary housing unit. The Associate Director has determined that leasing commercial sites at Federal expense is in the public interest. When the Associate Director determines that upgrading of a commercial site or installation of utilities on such a site will provide more cost-effective, timely and suitable temporary housing than other types of resources, he/she may authorize such action at Federal expense.

(2) A private site is a site provided or obtained by the applicant at no cost to the Federal Government. The Associate Director has determined that the cost of installation or repairs of essential utilities on private sites is authorized at Federal expense, when such actions will provide more cost-effective, timely and suitable temporary housing than other types of resources.

(3) A group site is a site which accommodates two or more units and is provided or obtained by a State or local government or other organization, completely developed with all essential utilities at no cost to the Federal Government. However, the Associate Director may authorize development of group sites, including installation of essential utilities, at Federal expense based upon a recommendation from the Regional Director indicating that all other efforts to obtain funding have been exhausted and that the group site will provide more cost-effective, timely and suitable temporary housing than other types of resources. The development of Federally-funded group sites is the only temporary housing-related activity subject to the National Environmental Policy Act (44 CFR Part 10). An environmental assessment will be required only on group sites consisting of 25 or more units unless the site is located in a base floodplain, wetland or other recognized high hazard area, in which case such an assessment will be conducted for all sites containing two or more units. By definition, a group site does not include a private site containing more than one unit.

(m) *Utility costs.* Utility use costs for all forms of temporary housing, other than transient accommodations where utilities are not separately metered, shall be the responsibility of the occupant. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, or where the utility costs are included in rental costs, each occupant household shall be assessed a monthly amount equivalent to the pro rata cost of utility services. Utility deposits shall be the responsibility of the occupant.

(n) *Supplemental assistance.* Essential furniture and household items may be provided to eligible applicants if they are being assisted in temporary housing which is not furnished with authorized items or when such items are required to occupy the primary owner-occupied residence while receiving minimal repairs assistance. Items provided shall be of average construction and quality and luxury items shall not be provided.

(1) Household items. Household items provided to eligible applicants shall be considered expendable.

(2) Furniture items. Furniture shall be obtained in the most practical manner and may be purchased, leased, leased with a time purchase option or obtained from Federal stocks. Furniture items are provided on a loan basis for the duration of Temporary Housing Assistance, or for minimal repairs recipients for a period not to exceed 90 days from date of delivery, unless extended by the Regional Director.

(3) Disposition of furniture items. Furniture made available to temporary housing applicants shall be disposed of in one of the following ways:

(i) In those instances where furniture has been leased with a time purchase option, the occupant may purchase the items from the lessor before his/her Temporary Housing Assistance is terminated; or

(ii) If the furniture has been purchased by the Federal Government it may be:

(A) Sold to the occupant at a fair and equitable price based on the fair market value of the furniture. The sales price may be adjusted to take into consideration the reasonable ability of the purchaser to pay or the cost to the Government to retain these items; or

(B) Disposed of in accordance with Federal property management procedures at 41 CFR 101–45.5, Abandonment or Destruction of Surplus Property.

(o) *Duration of assistance.* (1) Commencement. Temporary Housing Assistance may be provided as of the date of incident of the major disaster or emergency as specified in the Federal Register Notice. The effective date of assistance shall be either the date the eligible applicant obtained his/her own approved temporary housing, or the date the eligible applicant is provided with approved temporary housing, but, where applicable, only after ALE benefits are exhausted.

(2) Recertificaton. Recertificaton is a periodic review of the status of each temporary housing occupant household to determine eligibility for continued assistance. The period of eligibility for continued assistance shall be determined on the basis of need. Eligibility for continued assistance shall be recertified no less frequently than every 90 days and shall result in a written notification to the occupant. A realistic alternate housing plan should be developed for each occupant no later than at the time of the first recertification.

(3) Criteria for continued eligibility. A temporary housing occupant shall make every effort to obtain and occupy alternate housing at the earliest possible time. A temporary housing occupant shall be eligible for continued assistance when:

(i) Adequate alternate housing is not available to the occupant; and

(ii) The occupant(s) is in compliance with the terms of the lease/rental agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges authorized by the Regional Director or his/her designee;

(B) Maintenance of the temporary housing residence and behavior of occupants in a manner normally expected of a tenant of rental housing;

(C) Utilization of the residence as a dwelling for the occupant's household;

(D) Reimbursement to the Government where all or a portion of the Temporary Housing Assistance represents a duplication of benefits; and

(E) Fulfillment of responsibility to obtain alternate housing at the earliest possible time.

(p) *Rental Policy.* No rental shall be established for the first twelve months of occupancy in temporary housing including occupancy in transient accommodations. Thereafter, provided Temporary Housing Assistance is still required, rentals shall be established based on the fair market rent for the accommodations provided. Such rentals shall be adjusted to take into consideration the financial ability of the household. Based on information obtained through recertification, occupants will be notified of the date and the amount of the first rental payment at least 30 days before the expiration of the first twelve months of occupancy.

(q) *Termination of Assistance.*

(1) Grounds for Termination Termination of Temporary Housing Assistance may be intiated with a 30-day written notice after which 30 days the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Director or his/her designee including, but not limited to, the fair market rental for the temporary housing residence. Termination may be in the form of eviction from temporary housing or temination of financial assistance. Temporary Housing Assistance may be terminated for reasons including, but not limited to, the following:

(i) A determination has been made through the recertification process, or at any time, that adequate alternate housing is available to the occupant(s);

(ii) Determination that the Temporary Housing Assistance was obtained either through misrepresentation or fraud; or

(iii) Failure to comply with any term of the lease/rental agreement including those defined in paragraph (o)(3)(ii) of this section.

(2) Pre-termination Procedures.

(i) Termination of benefits. Written notice shall be delivered to the occupant(s) at least 30 days prior to the proposed termination of assistance or eviction by FEMA [or in these pre-termination procedures any entity designated by FEMA to administer Temporary Housing Assistance, specifying: The reasons for termination of assistance or ocupancy; the date of termination, which shall be not less than 30 days after receipt of the notice; the administrative procedure available to the occupant(s) if he/she wishes to dispute the action; and the liability after the termination date for additional charges as are deemed appropriate by the Regional Director or his/her designee including, but not limited to, the fair market rental for the temporary housing residence.

(ii) Administrative procedure prior to hearing. This procedure shall be utilized in all instances except when a State is administering Temporary Housing Assistance. States shall be subject to their own procedures provided they afford the occupant(s) with basic due process safeguards including: cross-examination, access to the documents on which the State is relying, the right to counsel, the right to present evidence, and the right to a written decision.

(A) Filing of complaint. If the occupant desires to dispute the termination, upon receipt of the written notice specified in paragraph (q)(2)(i) of this section, he/she shall present his/her complaint in writing to the appropriate FEMA office in person or by mail within five business days or such additional time as FEMA may for good cause allow. The complaint must be signed by the occupant and give the reasons why the assistance or occupancy should not be terminated, and the reasons for any other action requested, such as a request for a hearing.

(B) Informal conference. If a hearing has not been requested, the appropriate FEMA official may, immediately upon receipt of the complaint, attempt to arrange an informal conference with the complaining occupant in an effort to settle the matter. Whether or not the matter is settled by an informal conference, an answer in writing to each complaint, dated and signed by the appropriate FEMA official, shall be delivered or mailed to the complainant within five business days after receipt of the complaint, or such additional time as FEMA may for good cause allow. The answer shall specify the determination which has been made, based on consideration of the information in the complaint and/or the information provided at any informal conference, and the specific reasons for the determination.

(iii) Request for hearing. If the occupant requests a hearing pursuant to paragraph (q)(2)(ii)(A) of this section, a hearing date shall be scheduled promptly for a time and place reasonably convenient to the complaining occupant who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(iv) Hearing Panel. The Hearing Panel shall consist of three members: one occupant member, one member representing FEMA, and one impartial and disinterested member (together with an alternate) who shall be chosen by the other two Hearing Panel members. Relatives of the complaining occupant and officials and employees of FEMA whose duties or responsibilities have directly involved them with the complaint, shall not be eligible to serve on the Panel. The impartial and disinterested member of the Panel shall not be an official or employee of the FEMA office in which the complaint originated or an occupant receiving

Temporary Housing Assistance under the Act. In the event that the two Hearing Panel members cannot agree on the third impartial member, the third member shall be appointed by the Commercial Arbitration Tribunal of the American Arbitration Association. In the event that no occupant is available for selection as a member of the Hearing Panel in accordance with these regulations, then the hearing shall be conducted by a single impartial and disinterested Hearing Officer appointed by the Commercial Arbitration Tribunal of the American Arbitration Assoication.

(v) Hearing. (A) Due process requirement. The complaining occupant shall be afforded a fair hearing and provided the basic safeguards of due process as stated in paragraph (q)(2)(ii) of this section before the Hearing Panel, and may be represented by counsel or another person chosen as his/her representative. The hearing shall be private unless the complainant requests a public hearing. This restriction shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(B) Availability of documents. The complainant may examine before the hearing and, at his/her expense, copy all doucments and records of the appropriate FEMA office that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by FEMA at the hearing. The complainant may request in advance and at his/her expense a transcript of the hearing.

(C) Failure to appear. If a complainant fails to appear at a hearing, the Hearing Panel may postpone the hearing for not to exceed five business days or make a determination that the complainant has waived his/her right to a hearing.

(D) Proof. At the hearing, the complainant must first make a prima facie case that the continuance of assistance is appropriate; thereafter, FEMA must sustain the burden of proof in justifying the action against which the complaint is directed. The complainant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by FEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information FEMA relies. Hearings shall be conducted informally by the Hearing Panel and any oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to its admissibility under rules of evidence employed in judicial proceedings.

(vi) *Decision.* The decision of the Hearing Panel shall be based solely upon facts presented at the hearing and upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Panel shall prepare a written decision setting forth a statement of findings and conclusions, together with the reasons therefore, concerning all material issues raised by the parties, within five business days after the hearing, or such additional time as the Regional Director or his/her designee may for good cause allow. The decision of the Hearing Panel shall be binding on FEMA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision unless the FEMA General Counsel determines and notifies the complainant in writing within 30 days, or such additional time as FEMA may for good cause allow, that the decision of the Hearing Panel is not legally supportable.

(vii) Notice to vacate premises. If the determination under paragraph (q)(2)(ii)(B) of this section is to evict or if the occupant has requested a hearing on a notice of termination of occupancy pursuant to paragraph (q)(2)(i) of this section and the Hearing Panel upholds FEMA's decision to evict, and action to regain possession may not be commenced until the occupant(s)'s right to use and occupancy of the premises has been terminated by lawful written notice. Such notice to vacate may not be given prior to the date on which the Hearing Panel's decision is delivered or mailed to the occupant. In no case may eviction occur prior to the termination date stated in the original notice of termination of occupancy. When such notice to vacate is given to the occupant(s), he/she must be informed in writing that, if he/she fails to quit the premises within three days from receipt of notice, appropriate action shall be brought against him/her and that if suit is brought against him/her, he/she may be required to pay court costs and attorney fees.

(viii) Termination of assistance. If the determination paragraph (q)(2)(ii)(B) of this section is to terminate assistance or if the Hearing Panel upholds FEMA's decision to terminate assistance for temporary housing, such assistance may be terminated in accordance with the original notice given pursuant to paragraph (q)(2)(i) of this section at any time after the 30 days specified in the original notice have elapsed.

(r) *Disposition of Temporary Housing Units.* (1) Acquisition. The Associate Director may purchase mobile homes or other readily fabricated units for those who require temporary housing. After such temporary housing is vacated, it may be returned to one of the FEMA-operated Strategic Storage Centers for refurbishment and storage until needed in a subsequent major disaster or emergency.

(2) Sales. The Regional Director shall make available for sale any mobile home or readily fabricated unit acquired by purchase directly to a temporary housing occupant(s) for his/her use as adequate alternate housing in accordance with the following guidelines:

(i) Eligibility. The Regional Director or his/her designee shall sell units (hereafter to include mobile homes and pre-fabricated units) under his/her jurisdiction if the:

(A) Unit is to be used as a primary residence;

(B) Unit is reasonable in size for household composition;

(C) Purchaser has a site that complies with local codes and standards as well as FEMA's floodplain management regulations at 44 CFR Part 9 (in particular §9.13(e)); and

(D) Purchaser has sufficient funds to purchase and relocated the unit.

(ii) Sales price. Units shall be sold at prices that are fair and equitable to the purchaser and to the Government, as determined by the Associate Director. The purchaser shall pay the total sales price at the time of sale.

(iii) Adjustment to the sale price.

(A) Policy. Adjustments to the sales price to take into consideration the financial resources of the purchaser may be provided only when both of the following conditions are met:

(*1*) There is a need to purchase the unit for use as the purchaser's primary residence because other adequate alternate housing is unavailable. Adequate alternate housing must meet the criteria in paragraph (c)(1) of this section, and may consist of:

(*i*) Existing housing;

(*ii*) Additional resources such as disaster-damaged rental accommodations which can reasonably be expected to be repaired and become available in the near future;

(*iii*) New housing construction or housing to be made available through Government subsidy which is included in the immediate recovery plans for the area; and

(*iv*) Residences which can be repaired by the pre-disaster owner/occupant through funds available from insurance, other disaster assistance programs, or through his/her own resources.

(*2*) In addition to his/her own resources, the purchaser cannot obtain sufficient funds through insurance

proceeds, disaster loans, grants, and commercial lending institutions to cover the sales price.

(B) Calculating allowable housing costs. Allowable housing costs for purposes of calculating an adjustment to the unit sale price shall include:

(*1*) An amount equal to the actual annual pad rental, or the cost for purchase (principal, interest and taxes) and development of a permanent site up to the average annual pad rental in the area. In no instance shall such costs be allowed if covered by a disaster grant;

(*2*) Annual personal property or real estate taxes on the unit if not included in the mortgage payment;

(*3*) Annual insurance premium for the unit if not included in the mortgage payment, including any required flood insurance premium;

(*4*) Annual loan payment(s) for purchase of the unit;

(*5*) Any expense required to bring the unit up to State and local codes; and

(*6*) Other necessary housing expenses authorized by the Regional Director.

(C) Calculating the adjustment. The adjustment shall be calculated as follows:

(*1*) Subtract the total amount of funds from the resources identified in (r)(2)(iii)(A)(*2*) of this section available to the purchaser from the basic sales price, as determined by the Associate Director.

(*2*) Calculate allowable annual housing costs and subtract that amount from the amount representing 25% of the gross annual income of the purchaser's household.

(*3*) Subtract item (r)(2)(iii)(A)(*2*) of this section from item (r)(2)(iii)(A)(*1*) of this section to determine the amount of the adjustment to the basic sales price.

In no instance shall the sales price be less than $1.00 with all such sales to be approved by the Regional Director on a case-by-case basis.

(iv) Other conditions of sale.

(A) A unit shall be sold "as is, where is" except for repairs necessary to protect health or safety, which are to be completed prior to sale. There shall be no implied warranties. In addition, the purchaser must be informed that he/she may have to bring the unit up to codes and standards which are applicable at the proposed site.

(B) In accordance with the Flood Disaster Protection Act of 1973, Pub. L. 93-234, as amended, the sale of a unit for the purpose of meeting the need of an individual or family displaced by flooding, may not be approved where the unit would be placed in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone unless the community in which the unit is to be located after the sale is, at the time of approval, participating in the National Flood Insurance Program. The purchaser must agree to buy and maintain an adequate flood insurance policy for as long as the unit is occupied by the purchaser. An adequate policy for purposes of this paragraph shall mean one which provides coverage for the sales price of the unit (before any adjustment). The purchaser must provide proof of purchase for the initial flood insurance policy to the Regional Director.

(3) Transfer. The Associate Director may sell, lend, or donate temporary housing units purchased under Section 404(a) of the Act directly to States, other Governmental entities, or voluntary organizations. Such transfers may be made only in connection with a Presidential declaration of a major disaster or emergency. Donations may be made only when it is in the best interest of the Government, such as when future re-use by the Federal Government would not be economically feasible. As a condition of such transfers, the Associate Director shall require that the recipient:

(i) Utilize the units provided for the purpose of providing temporary housing for victims of major disasters or emergencies in accordance with the written agreement; and

(ii) Comply with the current applicable FEMA policies and regulations, including this section, 44 CFR Part 9 (especially §§ 9.13 and 9.14), Floodplain Management and Protection of the Wetlands, 44 CFR Part 10, Environmental Assessment and 44 CFR 205.16, Non-Discrimination in Disaster Assistance. The Associate Director may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer.

(s) *Mortgage and Rental Payments.* Temporary assistance in the form of mortgage or rental payments may be paid to or be provided on behalf of applicants who, as a result of a major disaster, have received written notice of dispossession or eviction from their primary residence by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice, the purpose of which is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction from his/her residence. Applications for this type of assistance may be filed up to one year following the date of declaration of the major disaster. This assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, as determined by the Regional Director or his/her designee, whichever is less. The location of the residence of an applicant for assistance under this section shall not be a condition of eligibility.

(t) *Appeals.* (1) Eligibility Determination. An applicant declared ineligible for Temporary Housing Assistance, an applicant whose application has been cancelled for cause, or an applicant whose application has been refused because of late filing, shall have the right to appeal such a determination within fifteen (15) calendar days following notification of such action. The Regional Director or his/her designee shall consider the appeal within two weeks after its receipt. The applicant shall receive written notice of the disposition of the appeal. The decision of the Regional Director or his/her designee is final.

(2) Denial of Request to Purchase Mobile Home or Pre-fabricated Unit or Request for an Adjusted Sales Price. An occupant who has been notified that his/her request to purchase a mobile home or pre-fabricated unit or his/her request for an adjustment to the sales price has been denied shall have the right to appeal such a determination within five (5) business days after receipt of such notice. The Regional Director or his/her designee shall consider the appeal within two weeks after receipt. The occupant shall receive written notice of the disposition of the appeal. The decision of the Regional Director or his/her designee is final.

(3) Termination. An occupant who has been notified of his/her termination of Temporary Housing Assistance as described in paragraph (q)(1) of this section shall have the right to appeal the decision within five (5) business days after receipt of such notice. Such appeals shall be made and resolved in accordance with pre-termination procedures contained in paragraph (q)(2) of this section.

(u) *Reports.* The Associate Director, Regional Director or the Federal Coordinating Officer may require from field operations, such reports, plans and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(v) *Federal Responsibility.* The Federal financial and operational responsibility for a Temporary Housing Assistance program shall not exceed eighteen months from the date of the

declaration of the major disaster, unless this period is extended in writing by the Associate Director, based on his/her determination that he/she deems it necessary and that such extension is in the public interest, e.g., if neither the State nor any other entity can accept responsibility for the program. The Regional Director may authorize continued use on a non-reimbursable basis of Government property, office space, and equipment by a State, other Government entity, or voluntary organization after the eighteen month period.

(w) *Non-Federal Administration of Temporary Housing Assistance.*

A State may request authority to administer all or part of Temporary Housing Assistance in the Governor's request for a declaration or in a subsequent written request to the Regional Director from the Governor or his/her authorized representative.

(1) State Temporary Housing Assistance Plan.

(i) States which have an interest in administering Temporary Housing Assistance shall be required to develop a plan that includes as a minimum, the items listed below:

(A) Assignment of Temporary Housing Assistance responsibilities to State and/or local officials or agencies;

(B) Procedures for accepting applications at Disaster Assistance Centers and subsequently at a State established Disaster Housing Office;

(C) Procedures for determining eligibility and notifying applicants of the determinations;

(D) Procedures for preventing duplication of benefits between Temporary Housing Assistance and assistance from other means, as well as a recovery procedure when duplication occurs;

(E) Procedures for minimal repairs;

(F) Procedures for developing an existing resource inventory;

(G) Procedures for placement activities;

(H) Procedures for mobile home operations;

(I) Procedures for recertification and relocation;

(J) Termination procedures;

(K) Contracting procedures;

(L) Procedures for quality control;

(M) Reporting procedures; and

(N) Arrangements for conducting a State audit.

(ii) The Governor or his/her designee may request the Regional Director to provide technical assistance in the preparation of an administrative plan.

(iii) The Governor or his/her designee shall submit the plan prior to a disaster to the Regional Director for approval. Plans shall be revised, as necessary, and shall be reviewed at least annually by the Regional Director or his/her designee.

(2) Evaluation of Capability. State or local government assumption of Temporary Housing Assistance for a particular disaster shall be approved by the Regional Director based on an evaluation of the capabilities end commitment of the entity. At a minimum, the evaluation shall include a review of the following:

(i) State Temporary Housing Assistance Plan which has been approved by the Regional Director, prior to the declaration;

(ii) Past performance in administration of Temporary Housing Assistance or other similar operations;

(iii) Management and staff capabilities; and

(iv) Demonstrated understanding of the tasks to be performed.

(3) Grant Application. Approval of funding shall be obtained through submission of a Standard Form 424 by the State or local government through the Governor's Authorized Representative. A requirement will also be established for the administering entity to submit an operational annex to the previously approved State Temporary Housing Assistance plan to the Regional Director or his/her designee.

(4) Operational Annex. In accordance with the grant application, the State or local government shall prepare for approval by the Regional Director or his/her designee an operational annex which tailors the State Temporary Housing Assistance plan for the particular disaster to include, but not limited to:

(i) Organization and staffing;

(ii) Pertinent goals and management objectives;

(iii) A proposed budget; and

(iv) An operational narrative which describes methods for the following: orderly tracking and processing of applications; assuring timely delivery of assistance; identification of potential problem areas; etc.

The Regional Director or his/her designee may require additional plans as necessary for subsequent phases of the operation.

(5) Authorized Costs. All expenditures associated with administering Temporary Housing Assistance are authorized if in compliance with this section and OMB Circular A-87 Revised, Cost Principles for State and Local Governments (46 FR 9548). Specifically, the following expenses are authorized when applicable:

(i) Administrative Expenses.

(A) Regular salaries;

(B) Overtime;

(C) Travel;

(D) Communications;

(E) Space rental;

(F) Equipment rental;

(G) Furniture rental;

(H) Supplies;

(I) Printing and reproduction;

(J) Liability insurance premiums; and

(K) Audit costs.

(ii) Program Costs.

(A) Minimal repairs;

(B) Costs associated with lease and rent reimbursements for temporary housing including transient accommodations and commercial site rental;

(C) Mobile home installation and maintenance;

(D) Mobile home private site development;

(E) Cost of furniture and household items;

(F) Mortgage and rental payments; and

(G) Other necessary costs, when approved by the Associate Director.

All contracts require the review and approval of the Regional Director or his/her designee prior to award, in order to be considered as an authorized expenditure.

(6) Federal Monitoring and Oversight. The Regional Director or his/her designee shall monitor State-administered activities since he/she remains responsible for the overall delivery of Temporary Housing Assistance. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(7) Technical Assistance. The Regional Director or his/her designee shall provide technical assistance as necessary, to support State-administered operations through training, procedural issuances, and by providing experienced personnel to assist the State or local staff.

(8) Operational Resources. The Regional Director shall make available for use in State or locally administered operations, Federal stand-by contracts, memoranda of understanding with Government and volunteer agencies and Federal property such as household items and Goverment-owned mobile homes and travel trailers.

(9) Audits. The State shall audit each operation in accordance with guidelines and standards provided by the Regional Director. All operations are subject to Federal audit.

Dated: July 7, 1983.

Jeffrey S. Bragg,

Executive Deputy Director.

[FR Doc 83-18945 Filed 7-15-83; 8:45 am]

BILLING CODE 6718-01-M

federal register

Monday
July 18, 1983

Part V

Environmental Protection Agency

Air Pollution From Aircraft and Aircraft Engines; Smoke Emission Standard

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL 2358-3]

Air Pollution From Aircraft and Aircraft Engines; Smoke Emission Standard

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rulemaking would stay the January 1, 1984 effective date of EPA's visable smoke standards for aircraft (40 CFR 87.21(e), 47 FR 58462) until the completion of rulemaking in response to a petition for reconsideration submitted on March 17, 1983 by the General Aviation Manufacturers Association. The proposed stay would apply only to turbojet and turbofan engines rated below 26.7 kilonewtons (kN) thrust.

DATE: All comments should be submitted by August 17, 1983.

ADDRESS: Interested parties may participate in this rulemaking by submitting written comments to the U.S. Environmental Protection Agency, Cental Docket Section (A-130), Attn: Docket No. OMSAPC-78-1, 401 M Street, SW, Washington, D.C. 20460. Two copies of comments are requested but not required. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge (ANR 455) U.S. Environmental Protection Agency, at the above address. Telephone: (202) 382-4981.

SUPPLEMENTAL INFORMATION:

I. Background

On December 30, 1982, the Environmental Protection Agency (EPA) promulgated a number of amendments to emission standards which apply to aircraft engines (47 FR 58462). One of the changes was the adoption of a standard for limiting visible smoke which had been developed by the International Civil Aviation Organization (ICAO) and published in ICAO Annex 16, Volume II, Aircraft Engine Emissions, First Edition, June 1981. The ICAO standard adopted is similar in format but somewhat less stringent than a standard proposed by EPA in a Notice of Propose Rulemaking (43 FR 12615) which lead to the series of amendments mentioned above.

II. Discussion of Issue

On March 17, 1983, EPA received a petition from the General Aviation Manufacturers Association (GAMA) which requested reconsideration or revision of the amended smoke standard. The petition asserts that EPA did not adequately consider GAMA's comments during the rulemaking and that the smoke standard adopted does not accurately reflect the ability of low thrust engines to comply. The petition goes on to propose a method which GAMA believes will more accurately match the invisibility criterion which is the basis for the standard and will improve consistency in the standard over the full range of engine thrust ratings. The GAMA petition is available for inspection in the public docket.

III. Proposed Stay

In order to provide time for careful evaluation of the arguments presented in the petition, EPA considers it equitable to stay the January 1, 1984 compliance date for the present smoke standard for engines rated below 26.7 kN thrust. Industry sources have claimed that one such engine could be brought into compliance only at considerable cost, which could not be recovered if the standard were subsequently amended along the lines recommended in the petition.

This action would also provide the time necessary for the agency to give ICAO the opportunity to participate in the evaluation of the proposed revision, so as to continue to foster international harmonization of aircraft engine emissions standards.

EPA intends that this review proceed expeditiously, with the goal of completing any necessary rulemaking by early 1984. The proposed stay would remain in effect for as long as necessary to achieve satisfactory resolution of the issues presented in the GAMA petition and to complete the rulemaking. The environmental impact of the proposed stay would be negligible, since this action is believed likely to affect only one engine model.

IV. Public Participation

Comments are invited on the proposed stay in the date of compliance for the smoke standard and on the merits of the GAMA petition. The comments should be submitted in writing to the EPA Central Docket Section (Docket OMSAPC-78-1) at the address given earlier.

V. Regulatory Analysis

Under E.O. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Analysis. This rulemaking is not major because it will result in annual adverse effects on the economy of less than $100 million. There are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons EPA has not prepared a formal Regulatory Impact Analysis.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to E.O. 12291. Any OMB comments and EPA responses thereto have been placed in the docket.

VI. Impacts on Reporting Requirements

There are no reporting requirements directly associated with this proposed rulemaking.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. Because of the limited classes of engines to which the proposal applies, no small entities (as defined by the Small Business Act) will be affected. Therefore, no Regulatory Flexibility Analysis has been prepared.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft.

Dated: July 11, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set forth above, EPA proposes to stay the January 1, 1984 effective date of the aircraft smoke regulations under 40 CFR 87.21(e) for turbojet and turbofan engines rated below 26.7 kN thrust pending completion of rulemaking in response to the petition for reconsideration submitted by the General Aviation Manufacturers Association on March 17, 1983.

[FR Doc. 83-19334 Filed 7-15-83; 8:45 am]

BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 48, No. 138

Monday, July 18, 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, JULY

30345-30608.....1
30609-30936.....5
30937-31176.....6
31177-31370.....7
31371-31610.....8
31611-31848.....11
31849-32000.....12
32001-32158.....13
32159-32322.....14
32323-32550.....15
32551-32746.....18

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305.....31179
310.....31179

3 CFR

Administrative Orders:
Memorandums:
July 5, 1983.....31177
Executive Orders:
10936 (Revoked by EO 12430).....31371
12154 (Amended by EO 12431)
12430.....31371
12431.....31849
12432.....32551

5 CFR

Proposed Rules:
300.....32288
317.....31862
335.....32288
339.....30398
351.....32304
430.....32288
431.....32288
432.....30398
451.....32288
531.....32288
532.....32288
540.....32288
551.....32280
752.....30398
831.....30398
890.....30406

7 CFR

2.....30345, 30609
28.....30937
180.....30939
245.....32323
725.....31373
790.....32323
908.....31187, 32159
910.....30349, 31373, 32324
924.....30940
946.....31851
1001.....32159
1046.....30346
1736.....31852
1887.....30348
1901.....30941
1944.....30941
1948.....30941
1980.....30941
1990.....30941

Proposed Rules:
27.....31047, 31863
28.....31047, 31863, 32027
51.....31658
52.....31406, 32355
61.....31047, 31863
68.....31049
246.....31502
444.....31227
658.....31863
947.....32027
967.....32028
991.....31866
1004.....31659
1131.....30641
1290.....30650
1493.....32355
3200.....31348

8 CFR

109.....31187, 32001
204.....30349
212.....30609
214.....30349
231.....30349
234.....30609
235.....30349
238.....32001
242.....31005

9 CFR

78.....30351
92.....32002
94.....31005
113.....31007
114.....31009

10 CFR

30.....32324
40.....32324
50.....31611
70.....32324
205.....31010
465.....32722

Proposed Rules:
2.....31661
40.....32182
50.....31050
55.....31661
70.....32182
73.....32182
440.....32273

11 CFR

100.....30351
110.....30351
9001.....31822
9002.....31822
9003.....30351, 31822
9004.....31822
9005.....31822
9006.....31822
9007.....31822
9012.....31822

Proposed Rules:
114.....32321

12 CFR

5 31187
8 30598
269 32330
269a 32330
269b 32330
270 32336
294 32330
303 32160
304 32160
347 32160
563b 31614
563c 31614
563d 31614
591 32160

Proposed Rules:

30 ..... 31232, 32187
330 32356

13 CFR

108 31374

14 CFR

21 31630
39 ..... 30610, 31190, 31630-31632, 32162-32166, 32553
71 ..... 31191, 31633, 32167, 32554
73 32168
75 31191
97 31634
202 31012
203 31013
204 31013
208 31013
211 31013
212 31014
213 31014
215 31014
222 31635
294 31015
298 31015
320 ..... 30352, 30355

Proposed Rules:

21 ..... 31234, 31238
25 31842
39 ..... 30667, 31662, 31663
71 ..... 30667, 32187, 32595

15 CFR

2 31636

16 CFR

13 30356
460 31192

Proposed Rules:

13 ..... 31243, 31867, 31871, 32596-32600
1700 31664

17 CFR

15 32554
270 32555

Proposed Rules:

15 32603
17 32603
18 32603
21 32188
230 32357
239 ..... 32357, 32359

18 CFR

101 32567
104 32567
201 32567
204 32567
271 32336-32339

Proposed Rules:

45 32604

19 CFR

101 30611

Proposed Rules:

22 30668
101 ..... 30670, 30671
175 30672
133 31245

20 CFR

416 30356
675 30357

Proposed Rules:

299 31410

21 CFR

73 31374
81 ..... 30357, 30358
172 31376
175 ..... 30359, 31382
176 ..... 30359, 32340
177 ..... 30360, 30361, 31383, 32340
178 ..... 30612, 31382, 31384, 32340
179 30613
510 30615
520 ..... 30362, 32341
522 ..... 30615, 32342
529 31385
540 30363
546 30615
555 30615
558 ..... 30363, 30615, 30616, 31386
561 32005
864 31387
866 31388-31391
868 ..... 31388, 31392, 31393
870 ..... 31394, 31395
882 31396

Proposed Rules:

105 31880
107 ..... 31875, 31880
184 31887
310 32361
312 31890
680 32361
803 31412
809 31890

22 CFR

Proposed Rules:

9b 32029

23 CFR

Ch. I 31588
720 31636
1209 31196

Proposed Rules:

635 31667

24 CFR

115 32342
450 32006
570 32006

25 CFR

Proposed Rules:

211 31978
212 31978
225 31978
278 32006

26 CFR

1 31015
31 31015

Proposed Rules:

1 ..... 31053, 31054, 31250
15A 31054

27 CFR

Proposed Rules:

4 32606
5 32606
7 32606

29 CFR

6 30602
18 32538
1910 30886
1917 30886

Proposed Rules:

1910 31412
2205 32191
2640 31251
2641 31251

30 CFR

221 31798
250 31397

Proposed Rules:

55 31171
56 31171
57 31171
75 30589
917 31668
935 32031
942 31054
948 31681

32 CFR

289 31019
706 31020

33 CFR

1 30616
92 30616
110 30622
157 31637
161 30616

Proposed Rules:

117 31258
151 30673
155 30673
163 31258
164 31259
320 31890
322 31890
323 31890
325 31890
327 31890
328 31890
330 31890
401 ..... 30685, 32607

34 CFR

668 31175

36 CFR

2 31847
7 31020
50 32012
251 31853

Proposed Rules:

7 32365-32367
13 32506
67 30686

38 CFR

1 30622
36 32571
40 31854

Proposed Rules:

17 32198

39 CFR

111 30364
601 32168

Proposed Rules:

10 30407

40 CFR

33 30364
52 ..... 30365, 30622-30631, 31022-31026, 31197-31204, 31398-31401, 31638, 31639, 32572
60 30633
62 31401
81 31205-31207
125 31403
145 ..... 31640, 32343, 32344
146 31403
162 32012
180 ..... 32013, 32014
205 32502
256 30633
271 ..... 31027, 32345, 32573
413 32462
423 31403
425 ..... 31403, 32346
430 31403
431 31403
433 32462
465 31403
466 31403
720 31641
791 31786

Proposed Rules:

52 ..... 30696, 31261
61 32126
86 31055
87 32745
162 32032
271 31056
405 32607
406 32607
407 32607
408 32607
409 32607
411 32607
412 32607
422 32607
424 32607
426 32607
429 32607
430 32607
431 32607
432 32607
433 32607
440 32607
600 31263
799 ..... 30699, 31812

41 CFR

Ch. 7 30366

Ch. 101 ..... 30592, 32169
1-3 31209
1-12 31028
1-15 31209
1-18 31028
9-3 30369
9-18 30369
9-50 30369
101-11 31033

Proposed Rules:

14-1 32032
101-41 31890
105-60 31890

42 CFR

Proposed Rules:

21 31669
75 31966

43 CFR

Ch. II 31854

Public Land Orders:

6403 31038

Proposed Rules:

36 32506
426 30408
4100 31892
5400 32607

44 CFR

2 30385
59 31642
64 ..... 30386, 30387, 31645, 32169, 32574
65 ..... 30389, 31647
67 ..... 30635, 31642, 32015
70 30390-30394
205 32734
206 32734

Proposed Rules:

61 32368
67 ..... 30408, 30706-30719
81 31892

45 CFR

233 32346

Proposed Rules:

84 30846

46 CFR

50 31648
71 31648
91 31648
107 31648
110 31648
189 31648
522 32350

47 CFR

0 31039
2 ..... 31214, 32576
25 31039
69 ..... 31649, 31856
73 ..... 31214, 32169
90 32576
94 32578
97 32586

Proposed Rules:

2 ..... 32607, 32610
51 32612
52 32612
61 31057
63 32199
73 ..... 30722, 32033, 32034, 32199
81 ..... 32607, 32610
83 ..... 32607, 32610
90 32614

49 CFR

Ch. X 31651
25 32171
171 31214
172 31214
173 31214
174 31214
175 31214
176 31214
177 31214
192 30637
195 30637
301 31653
575 32588
1000 30878
1011 31220
1039 ..... 31860, 32593
1042 32175
1160 32175
1161 32175
1162 32175
1165 32175
1168 32175
1175 30639
1176 30639
1181 32175
1307 32034

Proposed Rules:

Ch. X 31672
218 30723
571 ..... 32200, 32202
1300 31265
1301 31265
1302 31265
1303 31265
1304 31265
1305 31265
1306 31265
1307 31265
1308 31265
1309 31265
1310 31265
1312 31265

50 CFR

13 31600
17 31600
18 31220
21 31600
29 31653
260 32593
424 30395
611 ..... 31044, 31860
650 31860
651 31860
652 31860
661 32025
663 30395
672 31044
674 31046
675 31044
681 31655

Proposed Rules:

17 ..... 31414, 31417, 32520-32534
20 31266
21 32034
23 30732
36 32506
301 50409
402 31275
611 ..... 50409, 32036
661 31677
662 31680
672 50409

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 July 15, 1983



Just Released

Code of Federal Regulations

Revised as of January 1, 1983

Quantity	Volume	Price	Amount
_____	Title 7—Agriculture (Parts 900 to 999) (Stock No. 022-003-95109-1)	$8.50	$_____
_____	Title 7—Agriculture (Parts 1900 to 1944) (Stock No. 022-003-95115-6)	8.00	_____
_____	Title 14—Aeronautics and Space (Parts 200 to 1199) (Stock No. 022-003-95133-4)	7.00	_____
		Total Order	$_____

A cumulative checklist of CFR issuances for 1982-83 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐-☐

Order No._____

VISA*

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		